

Procurement

Handbook

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PROCUREMENT HANDBOOK

TABLE OF CONTENTS

Section 1 - Introduction	1
Section 2 – Ethics Statement	1
Section 3 - Procurement Statutes	1
Section 4 - Office of State Purchasing and Travel Website	2
Section 5 – Procurement Card	3
Section 6 - Delegated Authority	3
Section 7 - Most Common Procurement Methods	4
Section 8 – Differences Between ITB and RFP	7
Section 9 - Requisition/Purchase Order Overview	8
Section 10 - Prebid Conference	9
Section 11 - Period of Inquiry	12
Section 12 - Requisition Review	13
Section 13 - Specifications	19
Section 14 - Solicitations	21
Section 15 - Bid Receipt	22
Section 16 - Protests	22
Section 17 - Bid Security Instruments and Performance Bonds	23
Section 18 - Addenda to Alter Solicitation/Bid Opening Date	24
Section 19 - Award Process	26
Section 20 - Tie Bids	34
Section 21 - Cancellation of Solicitation	34
Section 22 - Purchase Orders	35
Section 23 - Change Orders	36
Section 24 - Assignment of Contract/Proceeds	38
Section 25 - Deficiency/Complaints	38
Section 26 - Late Payment	39
Section 27 - Sole Source and Proprietary	39
Section 28 - Trade - In of Used Equipment	41
Section 29 - Rental and Leases	42
Section 30 - Financed Purchases	43
Section 31 - Emergencies	44
Section 32 – Fax Bids	45
Section 33 - Approvals and Review Files	45
Section 34 - Requisition Renewals	46
Section 35 - RFP	51
Section 36 - Statewide Contracts	51
Section 37 - Agency Term Contracts	57
Section 38 – Communications	58
Section 39 – Glossary of Purchasing Definitions and Terms	59
Alphabetical Index	69
Abbreviations used in handbook	70

Section 1

Introduction

The mission of State Purchasing is to develop and implement sound procurement practices in accordance with executive policy and legislative mandates, and to provide quality and timely services to the agency and vendor communities. In keeping with our mission, we are offering basic information to assist you in preparing and processing purchasing documents. This was developed for use as a working tool. State Purchasing assumes no risks that may result from the use of this information and does not warrant the current effectiveness since the world of procurement is ever changing. Your assistance is sought wherever clarification or corrections may be in order. The information contained in this handbook is in no way all-inclusive. Purchasing agents must have a working knowledge of the Procurement Rules and Regulations, and all applicable executive orders and statutes governing procurement. ***Nothing contained herein shall be construed to amend or override any statute, rule, regulation, policy or procedure of the State of Louisiana, or the provision of any document used in any competitive procurement. It is offered only as a guide in making Procurement decisions.*** The Director of State Purchasing may amend any information at any time to ensure compliance with all governing procurement directives, policies, rules and regulations, and statutes. Your internal policies should complement these guidelines and may be more stringent or require additional approval(s) than the guidelines offered. AGPS acronyms and explanations should be ignored by non-AGPS agencies.

Section 2

Ethics Statement

All public purchasers are required to adhere to the ethical standards for public servants. Care must be exercised to avoid impropriety. The Code of Governmental Ethics can be found by searching under Legal Info/Louisiana Law Search/RS 42:1101-1170 from our website at <http://www.doa.louisiana.gov/osp>.

Section 3

Procurement Statutes

Some primary statutes governing procurement are listed below:

RS 38:2211 – 2296	Public Contracts
RS 39:1481 – 1526	Professional Services (handled by Office of
RS 39:196 – 200	Data Processing Contractual Review)
RS 39:1527 – 1546	Insurance
RS 39:1551 – 1736	La. Procurement Code
RS 39:1695	Late Payments
RS 39:1761	Lease/Purchase
RS 42:1101 – 1170	Code of Ethics
RS 43:1 – 34	Printing
RS 43:111 - 211	Advertisements
RS 44:1 – 41	Public Records

Section 4

Office of State Purchasing and Travel Website

Our Internet home page: www.doa.Louisiana.gov/osp

Our web site is a source for useful information. We are constantly updating and adding information.

Listed below is some of the information found on our home page:

About Us

- Vision, Mission, Philosophy
- Office Location
- State Purchasing Overview
- State Purchasing and Travel Staff*

Agency Center

- LaPAC (Louisiana Procurement and Contract Network)
- Louisiana Purchasing News
- Frequently Asked Questions
- Employee Purchase Program
- Equipment Finance Programs
- LaCarte Procurement Card Program
- Vendor Search
- OSP Memos
- AGPS Update
- NIGP – LA Chapter

Vendor Center

- LaPAC (Louisiana Procurement and Contract Network)
- Vendor Guide – How to Do Business
- Frequently Asked Questions
- Vendor Registration
- Commodity Catalog
- Louisiana State Regional Map
- OSP Memos
- Procedures BN Micro Computer Contracts
- Microcomputer Contract Additions

Online Forms

Technology Center

- Technology Contracts
- Guidelines and Memos
- Approved Catalog Micro Computer Contracts
- Microcomputers and Peripherals
- Networking and Storage
- Telecommunications
- Software Volume Pricing Agreements
- LA Information Technology Companies

Legal Information

- Small Purchases Executive Order
- Policy and Procedures Memorandum 51
- Purchasing Rules and Regulations
- Louisiana Law – Search

Contracts

- Contract Search
- Contracts by Title and T-Number
- Approved Catalog Contracts
- Brand Name or LaMAS Contracts
- Featured Contracts

State Travel

- Travel Information
- Travel Guide
- PPM 49
- Bulletins
- Airfares
- Vehicles

*State Purchasing and Travel Staff telephone numbers, e-mail addresses and commodities accessible here. Also, State Agency list, Cooperative Purchasing – Participating Entities.

Section 5

Procurement Card

LaCarte is Louisiana's procurement card program. It is a credit card issued for official state business use only. Small dollar purchases account for 80% of all acquisitions and the procurement card helps streamline that process. It provides an alternative method of payment. It not only helps reduce the cost of making small dollar purchases, it also allows you to receive goods more timely. There are no fees or costs to enroll in the program. Agencies that are not already using the procurement card, can apply to State Purchasing through their Department Head to request agency implementation. Detailed information is available on State Purchasing and Travel's website.

Section 6

Delegated Authority

Each **non-exempt** state agency's purchasing department is formally delegated a purchasing authority in writing by the Director of State Purchasing within certain dollar limits based on the number of purchasing classifications, training, and performance. This is known as a "Delegated Purchasing Authority" (DPA). Non-exempt agencies may process purchases within their delegated authority unless excluded by other provisions as shown below.

Non-contract purchases over a non-exempt agency's delegated authority are sent to State Purchasing for processing.

Even though a non-exempt agency has been delegated a dollar level of purchasing authority, there are exceptions. Purchases for the following must be submitted to State Purchasing for processing and/or approval:

- Labor and material project purchases \$5,000 or more
- Certain Information Technology Acquisitions
- Vehicles
- Telecommunications
- Travel
- Elevator Maintenance

Exempt agencies must submit non-contract purchases for certain Information Technology Acquisitions, all vehicles, and certain telecommunication purchases for processing and/or approval to State Purchasing.

Section 7

Most Common Procurement Methods

Mandatory Statewide Competitive Contracts	<p>If the purchase meets the minimum requirement of a statewide competitive contract:</p> <ul style="list-style-type: none">• Agency issues Contract Release Order to contractor; or• Agency may submit justification to State Purchasing to exempt purchase from contract if contract will not meet their needs and then bid accordingly
Non-mandatory (Non Exclusive) Statewide Contracts and Brand Name Contracts	<p>If the purchase meets the minimum requirement of a non-mandatory statewide contract or statewide brand name contract:</p> <ul style="list-style-type: none">• Agency may issue a Contract Release Order to contractor; or• Agency may solicit competitive bids (if within delegated authority); or• submit requisition for competitive bidding to State Purchasing (if over delegated authority)
Sole Source Purchase	<p>If the purchase is available from only one source and is not sold through distributors:</p> <ul style="list-style-type: none">• Must be identified as sole source prior to acquisition.• Agency submits letter stating why no other product is suitable or acceptable for their needs, the unique characteristics, and a statement that it is sold by only one known source. Letter must be approved by the chief procurement officer or his designee above the level of procurement officer.• Other conditions for sole source are where compatibility is the paramount consideration, where a sole supplier's item is needed for trial use or testing, procurement of items for resale, procurement of public utility services, registered breeding stock on a selective basis and other livestock on a selective basis with special approvals.• Agency obtains letterhead statement from sole source vendor (corporate marketing – not sales representative) declaring that product is sold only by his company and is not sold through a distributor network. The vendor must also provide a price quote, and a notarized or published price list.
Proprietary Purchase	<p>If there is only one product suitable for the agency's needs but it is sold through distributors:</p> <ul style="list-style-type: none">• Agency submits letter stating why only one brand name or item is suitable for their needs and the necessitated circumstances or unique characteristics. The chief procurement officer or the head of a purchasing agency must approve letter.• Solicitation must contain language indicating that the purchase has been approved as a proprietary purchase.
Sheltered Workshop Purchase	<p>Agency may obtain quote from Employment Development Services (EDS) or issue a Contract Release Order (CRO) against State Use Contract No. 401120.</p>

Prison Enterprise Purchase	<ul style="list-style-type: none"> • Agency may obtain quote from Prison Industries or issue a Contract Release Order (CRO) against Prison Enterprise Brand Name Contract No. 403587. • Agency may issue Contract Release Order (CRO) based on established prices on Company Apparel Safety Items (CASI) Contract No. 403221.
Emergency Purchase	<p>Any state agency may make emergency procurement of up to \$5,000 when an emergency condition arises and the need cannot be met through normal procurement methods, provided that whenever practical, approval by the chief procurement officer shall be obtained prior to the procurement. Prior to all such emergency procurement of \$5,000 or more, the chief procurement officer (CPO), head of a state agency, or either officer's designee shall approve the procurement. FAX requests should be submitted if time permits, and must contain adequate justification for the emergency. An emergency condition is a situation which creates a threat to public health, welfare, safety, or public property such as may arise by reason of floods, epidemics, riots, equipment failures, or such other reason as may be proclaimed by the chief procurement officer. The existence of such condition creates an immediate and serious need for supplies, services, or major repairs that cannot be met through normal procurement methods and the lack of which would threaten the functioning of Louisiana government, the preservation or protection of property, or the health or safety of any person.</p> <ul style="list-style-type: none"> • Obtain C.P.O. approval – mandatory if \$5,000 or more • Obtain quotations from 3 bona fide or more vendors when time permits. • Prepare written determination of emergency.
Small Purchase \$500 or < or \$1000 or < if purchased with the procurement card	No competitive bidding is required
Small Purchase \$500 or \$1000 (if purchased with the procurement card) up to \$5000.	<ul style="list-style-type: none"> • Agency solicits price quotations from at least 3 bona fide qualified bidders if within delegated purchasing authority • Via telephone, facsimile, or other means • At least 1 source shall be a certified small and emerging business*, wherever possible (document file when not available) • File to contain written confirmation from successful bidder.
Small Purchase \$5000 - \$25,000	<ul style="list-style-type: none"> • Does not include public works contracts >\$5,000 • Agency obtains facsimile or written quotations (if within their delegated authority) from at least 5 bona fide qualified bidders • At least 2 sources shall be a certified small and emerging business*, wherever possible (document file when not available). Requirement is waived if posted on LaPAC. • Minimum 3 working days allowed for receipt of quotations.

*AGPS users may inquire on CGSA with ED, class/sub-class, and GEO bid code. Others may obtain this information from Economic Development's website under SEBD (www.lded.state.la.us).

Purchases Exempt by Governor's Small Purchase Executive Order	<ul style="list-style-type: none"> • Agency obtains price quote(s) and issues a purchase order if within delegated authority in accordance with executive order. • Agency obtains price quote(s) and obtains approval from State Purchasing if above delegated authority in accordance with executive order. • Latest version of the Executive order can be found on our website at www.doa.louisiana.gov/osp.
Used Equipment Purchase	<ul style="list-style-type: none"> • (See R.S 39:1645) • Agency must present satisfactory cost effective information • Must be purchased within price range set by Director of State Purchasing or the Director of purchasing at colleges and universities in her/his statement of written approval for the purchase • Head of agency, college or university shall certify the following in writing to the Director of State Purchasing, College or University: <ul style="list-style-type: none"> - Price of used equipment - Plan for maintenance and repair of equipment including cost - Savings that will accrue to the State by purchasing used equipment - Statement of fact that procedures set out in the Louisiana Procurement Code will result in the loss of the opportunity to purchase the equipment.

Section 8

Differences Between

ITB	RFP
Used when agency has a definitive need. Award is made to the lowest responsive and responsible bidder.	Used when seeking a solution to a definitive problem, for highly technical equipment, complex services or contracting with a group purchasing organization. Award is made to the responsible bidder whose proposal is the most responsive and advantageous to the state with consideration to cost as well as other evaluation criteria.
Agency identifies need and submits requisition to State Purchasing with specifications and suggested sources for processing.	Agency identifies need, submits RFP request letter with justification, statement of work, evaluation criteria with point value of each to State Purchasing for approval by Director.
State Purchasing reviews and modifies, includes terms and conditions, selects bidders and issues ITB.	State Purchasing reviews request and RFP draft after approval, modifies, includes terms and conditions, selects bidders with assistance from agency, and issues RFP.
	Evaluation committee is selected by agency and instructed by State Purchasing.
If over \$25,000, file is posted to LaPAC and is advertised once in the State's official journal & respective parish circulation 10 days (statutory requirement but OSP normally allows 21 days) prior to bid opening and bids are mailed to all known bidders. Other requirements apply to long contracts that involve labor and material.	File is advertised, posted to LaPAC, and notices are mailed to all known potential offerors at least 30 days prior to proposal opening.
Bidders prepare bid response and submit prior to bid opening.	Offerors prepare offer and submit prior to proposal opening.
Bids are publicly opened. Names of bidders and prices quoted are read.	Proposals are publicly opened and only the names of offerors are read.
Bids are tabulated and given to the State Purchasing Officer.	Copies of all proposals are distributed to the Evaluation Committee.
The State Purchasing Officer evaluates the bids against specifications in the ITB solicitation and obtains technical advice from agency when required.	Evaluation Committee members conduct independent evaluations of each offer based on evaluation criteria defined in the RFP and meet to arrive at consensus scoring.
State Purchasing Officer awards the purchase order to the lowest responsive and responsible bidder.	Evaluation Committee develops award recommendation, project leader obtains agency management approval, and forwards to State Purchasing.
	State Purchasing administratively reviews award recommendation and obtains approval from the Director.
	"Intent to Award" letter(s) and "Notice of Regret" letter(s) are sent to all offerors, as appropriate.
Bids may be examined within 72 hours after bid opening, by request.	Offerors may be debriefed by contacting the Office of State Purchasing. Offerors may submit a public records request and information is provided within 72 hours.
Bids cannot be negotiated. Purchase order is issued.	All RFP awards must be reduced to a contract. Contract terms and conditions and non-mandatory requirements can be negotiated but not price alterations.
State Purchasing Officer signs the purchase order.	Agency and successful offeror sign the contract and forward to Director of State Purchasing for signature.
	Agency must monitor contract, evaluate contract performance and utility of the final product and provide report to State Purchasing any time upon request during contract term and within 120 days of completion.

Section 9

Requisition/Purchase Order Process Overview

- ☐ Agency determines need, develops specification, selects proper commodity class-subclass(es) and transmits to State Purchasing if over their delegated authority.
- ☐ Purchasing agent seeks any approval necessary i.e. proprietary, budget, emergency, etc.
- ☐ Purchasing agent reviews requisition, specifications, and selects appropriate terms and conditions and prepares solicitation.
- ☐ Item is advertised in the parish and State's legal journals if applicable.
- ☐ Solicitation is posted to LaPAC if \$25,000 or above.
- ☐ Solicitations are mailed.
- ☐ File is maintained in a designated location until bids open.
- ☐ Bids are time stamped when received, and securely maintained in a central location until bid opening date.
- ☐ Bids are publicly opened and read (vendor name and price) and tabulated. (If RFP, proposals are opened, only the name is announced).
- ☐ Purchasing agent reviews tabulation and evaluates the bids for responsiveness to solicitation.
- ☐ Purchasing agent awards the file and issues the purchase order, obtaining any necessary approvals.
- ☐ Purchasing agent reviews Purchase Order and signs or obtains proper signature.
- ☐ Purchase Order is mailed to successful vendor.
- ☐ Entire file with copy of purchase order is maintained in a designated location for a period of at least 3 years or in accordance with formal records retention schedule per Public Records Act
- ☐ Goods are delivered to agency. Receipt and payment are processed.
- ☐ Purchasing agent addresses any complaints that might develop before or after delivery.
- ☐ Purchasing agent processes change orders if needed.

Section 10

Prebid Conference

Review Purchasing Rules and Regulations, Section 511

These are the suggested guidelines used by State Purchasing.

Types:

There are two types of prebid conferences – mandatory and non-mandatory. If the prebid conference is mandatory, only the companies represented by attendees may be considered for an award. A mandatory pre-bid conference must have compelling reasons and should be avoided wherever possible in an effort to increase competition. Note: State Purchasing requires all mandatory pre-bid conferences other than those substantiated by an architect's letter on construction, to have management approval prior to bidding.

Preparations:

The following steps are to be followed in preparation for the prebid conference:

Arrange place and time for participants. Allow enough time for the vendors to review the solicitation, which is usually 2 weeks. Bid openings are usually scheduled 2 to 2 1/2 weeks after the prebid conference to allow time for addendum processing if necessary. Any changes or clarifications, which have material impact, must be published in an addendum to all solicited vendors in the event they did not attend the prebid conference (only attendees will receive addendum if prebid is mandatory).

Indicate prebid information in the solicitation. Example:

A prebid (indicate “mandatory” if applicable) conference will be held in the Bid Room at State Purchasing, 1201 N. 3rd Street, Ste. 2-160, Baton Rouge, Louisiana at 10:00 A.M. on Thursday, March 13, 2005 to discuss specifications. All interested parties are urged to attend. Be prepared to present any comment or needed changes to the specifications at the meeting.

Advertise conference if attendance is mandatory or if estimated cost exceeds \$25,000. Advertisement is to run 10 days before prebid conference date.

Prepare Attendance Record (sign-in sheet) for attendees. Recommended format includes the following (Example follows at the end of this section) File No., Brief Item Description, Agency and the Date with a place for attendees to indicate name of company or agency and address, names of attendees, their telephone number, fax number, and E-mail address. This is important information for proper file documentation. It also provides useful information for the addendum process.

Arrange for use of an office tape recorder with spare tapes, if applicable. Also have someone take written notes as a backup in case of technical difficulties with the equipment.

Have copies of the solicitation available for participants and copies of any written inquiries received to date, if applicable.

Remind agency participants several days prior to prebid and request that they include technical/expert/informed parties as attendees.

If the purchasing agent/officer is the facilitator, their role will be to guide agency representatives to ascertain that specifications are not unduly restrictive. The purchasing agent/officer will also take notes or assign someone to do so (if event is not recorded) of all changes and clarifications to incorporate into the addendum. All changes but only clarifications that change the scope of the contract must be included in the addendum.

The facilitator (usually the purchasing agent handling the file) will open the meeting with a statement similar to the following:

“We are here today for a prebid conference on (item), File No. () for (agency). The purpose of this conference is to review the specifications to insure that specifications allow for maximum practical competition and are not unduly restrictive. This is an informal meeting. The solicitation will be reviewed page by page and point by point if necessary. You will have the opportunity to ask questions, seek clarifications, or request specification changes. All technical questions or concerns regarding specifications are to be directed to the agency representative(s). You will be notified by formal addendum if any changes result from this conference. No decisions or actions shall be executed by any bidder as a result of any oral discussions with any State employee or consultant. Only those transactions which are in writing, signed by an authorized person with the purchasing agency, may be considered as valid.”

**ATTENDANCE RECORD
PRE-BID CONFERENCE**

ITEM: _____ **AGENCY:** _____

FILE NO. _____

DATE: _____

PLEASE PRINT CLEARLY

NAME	COMPANY/ADDRESS	PHONE NO.	FAX NO. AND E-MAIL
	_____ _____ _____		
	_____ _____ _____		
	_____ _____ _____		
	_____ _____ _____		
	_____ _____ _____		
	_____ _____ _____		
	_____ _____ _____		
	_____ _____ _____		
	_____ _____ _____		
	_____ _____ _____		

Section 11

Period of Inquiry

It may be advantageous to have a period of inquiry on a solicitation prior to opening bids to answer bidder questions and clarify specifications. If an inquiry is in order, include language in the solicitation. Example:

AThis solicitation includes a period of inquiry. No decisions or actions shall be executed by any bidder as a result of any oral discussions with any State employee, or State consultant. Only those transactions which are in writing, may be considered as valid. Likewise, the State will only consider communications from bidders that are signed and in writing.

An original of all such inquiries must be submitted in writing to:

Buyer N. Charge
(OSP if the solicitation is handled by OSP)
Louisiana Department of ??
Address
City, State Zip

Copies may be mailed to:

Agency N. Need
Person and Title
Louisiana Department of ??
Address
City, State Zip
Fax. No.
Email address:

Calendar of Events

Release Solicitation
Deadline to receive inquiries
Answer Inquiries
Bid Opening Date

mailing date
10-14 days after release
7-10 days after inquiry receipt
**10-14 days after inquiry answers
are released**

Written inquiries shall clearly cross-reference the relevant solicitation. Answers to questions that change or substantially clarify the solicitation will be affirmed in writing in the form of an addendum and provided to all prospective bidders.

The addendum (if one is necessary) should only include those questions and state responses which change the scope of the bid. It should not include questions which direct a bidder to parts of the bid which already exist when no change is being made to the ITB language (e.g. administrative issues such as "Is a bid bond required?") All questions and responses should be included as an attachment to the addendum.

Section 12

Requisition Review

See Checklist at the end of this section.

Requisitions should be reviewed prior to bidding, renewing or submitting to State Purchasing for processing. The purchasing agency is responsible for providing accurate and timely information in compliance with all statutory and regulatory procurement directives pertinent to the acquisition.

If the requisition is for a renewal, see section on requisition renewal.

If the requisition is to be bid, review the requisition to make certain that requirements are clearly and completely described. The following questions should be considered:

1) Can an established contract satisfy this need? Most contracts are established for convenience (non-mandatory/non-exclusive). If usage is mandatory, non-exempt agencies must use established competitive contracts if minimum requirements are met. Brand name contracts and competitive contracts for convenience are optional and the agency **may** choose to competitively bid the item(s). AGPS agencies can inquire on KNOA and KNTE to determine if contract is non-mandatory. Non AGPS users may inquire in the Contract Search (under Contract Notes) on the State Purchasing website. If an item on a competitive contract does not meet an agency's need, they may submit a letter of justification with approvals (as required by the agency) to the Office of State Purchasing. State Purchasing will review and the agency will be notified if approval has been granted by the Director of State Purchasing or his/her designee.

2) Is this purchase repetitive? If the item is purchased frequently, you may want to consult with State Purchasing for a possible agency term contract if the quantities warrant. Frequent or recurring purchases of the items may be considered as circumvention of the bid laws or "split purchasing." Example: Purchasing items available from vendors in the same industry category on a repetitive basis (daily, weekly, monthly, etc.) as a small purchase. "Vendors in the same industry category" are suppliers selling products in the same commodity category, such as medical, office supply, hardware, etc. Standing purchase orders with "as needed" or scheduled shipments should be considered if feasible and the quantities and dollar amount warrant.

3) Is desired delivery properly stated? The standard delivery request is 10 days for readily available goods but can vary. If delivery is indicated as a desired delivery time, vendors should not be ruled out if their delivery is not exactly as requested. There may be times when delivery is to be considered in making the award. When this is required, AGPS agencies are requested to indicate reason/justification in the RNTes. Mandatory delivery requirements can add cost to the procurement. Every effort should be made to plan procurement in a timely manner to avoid unnecessary cost related to short delivery requirements.

Specify delivery instructions. When needed, give exact and specific instructions to delivery location, i.e. phone number, contact person, call prior to delivery, inside delivery, unloading, setting in place, justifiable geography restrictions or limitations, etc.

Indicate whether delivery is to be “called for as needed”, “quantities and delivery dates”, or “delivered all at once”.

4) Has correct class and sub-class been selected to solicit appropriate potential bidders?

Review all items on the requisition to confirm the requisitioner selected correct commodity class(es). (Requisitions that contain supply items, equipment and maintenance may require different commodity numbers.) If additional class(es) or sub-class(es) are appropriate, indicate in RNTE on the requisition (to be added on SDO2 when the solicitation is built). Suggested vendors are recommended. The agency should indicate additional suggested vendor(s) on RQS5 or build SVE2 records (if purchased in house) if more than 3 suggested vendors are requested. AGPS will not automatically solicit vendors listed in the RNTEs. If listed in RSQ5, it will insure that the additional bidder(s) will be included in addenda or cancellation(s) that may be issued. Additional bidder(s) record(s) may also be created on SVE2 after the solicitation is created. Review GEO bid code on RQS5 to determine if correct regional vendors have been selected. Use the GEO bid code where goods or services will be rendered which selects the vendors enrolled for that area as well as vendors enrolled statewide. (Example: GEO bid code R2 selects vendors enrolled for Region 2 as well as those enrolled statewide. GEO bid code RO selects vendors enrolled in all 8 areas leaving out those enrolled in selected areas only.)

5) Will correct number of bidders be solicited? Most classes and subclasses have an adequate number of vendors enrolled to meet the guidelines of Section 701 of Rules and Regulations and the Governor’s Small Purchases Executive Order. Vendors pay a fee to enroll on State Purchasing’s bid list to receive hard copies of solicitations or can enroll in LaPAC at no charge for email notifications each time selected commodities are bid. State Purchasing’s policy is to solicit all bidders enrolled in the class/subclass for the chosen GEO bid code in AGPS.

If a proper class does not exist in AGPS or if you have problems identifying the proper class, call State Purchasing or check for sources in the Thomas Register (www.thomasregister.com).

6) Are specifications clear and not unduly restrictive? Unduly restrictive specifications limit the source(s) that can comply with all of the specifications as written, thereby eliminating or restricting competition on items that would be capable of satisfying the intended need. If items are sole source or proprietary, see section on Sole Source and Proprietary.

Review section on specification development in this handbook.

If adding a brand name and number for reference, add “or equal” and “Specify Brand and No. _____” to invite bidder’s response. If specifications appear to be unduly restrictive, work with the requisitioner to open the specifications or ask them to supply the names of additional brands that can meet ALL of the specifications as written. Agencies should list the essential elements of the brand name requested in the specifications and be prepared to justify the elements selected.

Remove all unnecessary mandatory (“must” or “shall”) language from the request when possible. Mandatory requirements reduce or eliminate competition. Bids cannot be awarded to bidders that cannot comply with mandatory requirements. Consider whether documents and proof of certifications can be obtained after the bids are opened and prior to award. Examples include

insurance certificates, licenses, references, MSDS sheets, etc. The solicitation should request information in a non-mandatory way: Example: “All bidders **“should”** include a copy of their insurance certificate with their bid”.

Edit all language in the specifications and delete language that is not appropriate for the solicitation. Example: “prepay shipping charge and add to invoice” written in the requisition text. Anything that is not deleted will appear on the solicitation.

7) Was the appropriate unit of measure used for the type of purchase? When bidding maintenance or service, the appropriate unit of measure may be “month”. This will allow subsequent renewals or extensions that may be for less than a year.

8) Do you need to issue a bid for an agency contract that does not coincide with the fiscal year or for longer than 12 months? It is possible to issue bids for agency contracts that are not on a fiscal year basis. It is also possible to contract for longer than 12 months. Any such bid must include the fiscal dependency clause and a statement that orders will be issued on a fiscal year basis for accounting purposes. (AGPS text reference No. S906). An example would be a request for a maintenance contract submitted 2 months prior to the end of the fiscal year. You may want to consider a 14-month contract that would cross fiscal years. Document the file with reasons.

9) Is the quantity clear? If it is for a standing order with scheduled deliveries, do the delivery quantities equal the total quantity? If the unit of measure is “package”, “case” or similar, does the description indicate how many per “case” or “package”. If packaging is not critical, invite vendor to indicate his “case” or “package” count.

10) Are Samples required? Normally, samples are requested from the lowest bidder after bid opening. Sample language: “Samples must be received within 10 days upon request.” Mandatory language requiring samples to be submitted along with bids may eliminate consideration of favorable bids which failed to submit their samples with bid.

11) Is a prebid conference beneficial? On large dollar purchases or technical equipment, it is often beneficial for further dialogue to take place between the agency and potential bidders for clarification purposes or to open the specifications to allow for maximum competition. If the requisition will be sent to State Purchasing, indicate in the RNTes that a prebid conference is desirable. If a prebid conference will be held by the agency, there are some suggested guidelines under Prebid Conferences in this handbook.

12) Is a period of inquiry beneficial? It may be beneficial to have a period of inquiry on a solicitation prior to opening bids to answer bidder questions and clarify specifications. See suggested guidelines under Period of Inquiry in this handbook.

13) Select appropriate Terms and Conditions (Ts and Cs) from the AGPS database. The preference language except on services (C111) clause is standard on all solicitations at State Purchasing.

14) Repurchase clause – To obtain best buy, agencies should anticipate usage for a year if history indicates repetitive purchases of a commodity, service or equipment. When dealing with unknown quantities, the agency may request a repurchase clause. The time frame is to be identified on the solicitation and you may want to include a contingency clause based on vendor acceptance. (Example: The agency reserves the right to purchase additional quantities at the same price, terms and conditions for a period of _____ months from the date of order based upon vendor acceptance.) Repurchase quantities should never exceed the original amount. You must also take into consideration the total dollar amount so that you will not be in violation of sealed bid requirements. For instance, if fax bids were solicited on the initial purchase for \$13,000, you cannot repurchase another \$13,000 without being in violation of the sealed bid requirement. Also consider advertisement if quantities might exceed advertisement threshold.

15) Add Special notes and requirements to be included in the solicitation that may be pertinent to the specific commodity purchased.

16) Trade-in – If there is a trade-in, indicate type, age, brand and model of equipment. See section on Trade-ins in this handbook for additional requirements to be satisfied.

17) How will award be made? If you are going to award other than by the lowest bid by item such as on an all-or-none basis or by groups, document the file with the compelling reasons, and add proper language to the solicitation. Also include language that will permit deletion of items from the award on group or all-or-none awards. (Example: The Division of Administration reserves the right to delete line items from the award.) If an award formula is used, intent must be clear.

Consider all items and essential elements of the specifications when determining award method. Considerations might be life cycle costing, sealed model, etc.

18) Executive Order – Review the Governor’s Small Purchases Executive Order for exclusions from competitive bid process. Even if an item is exempt from competitive bid requirements, agencies may competitively bid if so desired.

19) Equipment – If the purchase is for equipment, have warranty, programming and installation been addressed? If installation is required, an insurance certificate should be requested (AGPS S404) indicating insurance limits. The insurance certificate should be issued in the name of the purchasing agency so that in the event of policy cancellation or changes, the insurance company will notify them.

20) Is a site visit appropriate? Include an agency contact name and telephone number for the vendor. If the site visit is mandatory, include a signature line for the agency on the bid form for verification of the vendor’s site visitation or obtain letter from the agency stating vendor visited the jobsite. Note: If site visit is mandatory and the vendor does not visit the site, he cannot be considered for an award. If the site visit is not mandatory, solicitation should include a disclaimer i.e. “vendor is responsible for site familiarity whether visit is made or not.”

21) Is training required? If training is itemized as a separate line item, include travel policy language in the solicitation. Advise bidders that associated charges shall not exceed those in travel policy. Example: “Charges for airfare, hotel, meals, etc. must be in accordance with Louisiana State Policy and Procedure Memorandum No. 49 – copy available upon request or on State Purchasing’s website at www.state.la.us/osp/osp.htm (click on Office of State Travel, then Office of State Travel Homepage, and then PPM under Travel policy and Procedures).” Agency should determine if travel is to be included in total cost (recommended by OSP) or itemized in compliance with PPM 49. Language not necessary if travel is not itemized.

Other training considerations might be: Telephone/online support after training? Duration? Training manuals? Any associated cost?

22) Rentals/Leases and Open Ended Requests must state the contract period (beginning and ending).

23) Rentals/Leases (with a few exceptions such as copiers, rental/reagents and other contracts which provide rental rates) require justification letters from the agency explaining reasons for rental or lease versus purchase. Justification letters are to be forwarded to State Purchasing if above the agency’s delegated authority.

24) All requests for third party, LEAF and/or vendor financing must be indicated on the requisition and require approval from the Finance Program Manager at State Purchasing before processing. If bidding is required, all financed files are bid by State Purchasing.

25) Standing Orders or Open Ended Orders with increase/decrease clauses that have renewal potential in subsequent years and are bid for less than 12 months, should have language included in the solicitation. Example: “The above quantities represent __ months usage. If renewed in subsequent years, quantities may be increased proportionally to the contract period.” Consider advertisement threshold on renewal quantities.

26) Requisitions that include an increase/decrease clause should also have a 30-day cancellation clause in the event that the agency’s actual needs far exceed the estimated amount on the initial requisition/solicitation. This would allow for cancellation and rebid of larger quantities and possibly better pricing. Increases cannot cause total order to exceed advertisement threshold if not advertised.

27) Is the estimated cost realistic? When making this determination, the requisitioning agency should check with known sources, price list, trade journals, Consumer Price Index, Producer Price Index, or any other applicable pricing index source. Valuable time is lost when estimates are unrealistic. Files must be rebid if the award cost comes in above the advertisement threshold if the file was not advertised. If State Purchasing processes the file, approval must be granted by the agency if the award cost is greater than 10% of the estimated cost.

Checklist for Requisition Review

- ___ Is item on contract?
- ___ Is item exempt from bidding by Governor's small purchase executive order?
- ___ Desired delivery realistic?
- ___ Delivery instructions clear (how, when, as needed, one time, etc.)?
- ___ Correct class and subclass selected for each item?
- ___ Suggested vendors indicated (if known or applicable) in RQS5?
- ___ Proper number of bidders will be solicited?
- ___ Correct GEO bid code (bidder enrollment for area serviced) selected?
- ___ Specifications are clear and unduly restrictive?
- ___ Brand name and number indicated (if known or applicable)?
- ___ Mandatory language removed when not necessary?
- ___ Correct unit of measure used for each item?
- ___ Quantity is clear (number per case/package/etc. indicated when applicable)?
- ___ Samples required?
- ___ Prebid beneficial?
- ___ Period of Inquiry beneficial?
- ___ Literature requested (if appropriate)?
- ___ Terms and conditions appropriate to purchase?
- ___ Special requirements for specific commodity?
- ___ Trade-in information listed (if applicable)?
- ___ How will award be made?
- ___ Warranty and installation addressed (if applicable)?
- ___ Licenses, certifications, insurance, etc. requested (if applicable)?
- ___ Site visit information indicated (if applicable)?
- ___ Training required (if applicable)?
- ___ Approvals obtained (internal/financing/rentals/etc.)?
- ___ Sole source, proprietary or emergency procedures have been followed? (if applicable)
- ___ Realistic estimated cost?

Section 13

Specifications

Review Rules and Regulations Chapter 3

Since the goal of purchasing agents is to obtain quality products and services at the best price and within the parameters of applicable laws, rules and regulations, adequate specifications are required. Adequate specifications streamline the procurement process, while poor specifications cause unnecessary delays and may result in an inappropriate purchase, protest or necessitate a rebid.

Tips for preparing specifications:

If the agency is developing specifications from a brochure, work with end user to select the most important features required for their needs. Leave out brochure language that cannot be objectively evaluated. Delete words like “patented”, “unique” and trademark symbols.

Specifications should contain enough detail for the bidders to understand agency requirements.

Describe competitively bid items generically – example: “facial tissue” instead of “Kleenex”

Technical equipment specifications should contain enough detail to differentiate the level of quality or performance required.

If sizes are part of the specifications, determine if a range is acceptable (indicate minimums and maximums), or indicate approximates. If the item must fit into a given space, indicate the available space.

If weight is an important factor, indicate the acceptable range or minimum or maximum acceptable weight.

Delivery, warranty, or training requirements should be clearly defined.

Identify any instructional materials or service manuals that the Contractor must furnish. Also, incorporate into the specifications the type of training they must provide to the end users.

When compatibility with an existing piece of equipment is a factor, describe the equipment, connectors, interfaces, brand and model of the existing equipment.

If the agency desires to purchase a model like one they already have, verify that the model and brand number is still available. Requesting models that have been discontinued often wastes valuable time.

Specifications should clearly state packaging requirements, size, types of finish, color coordination, etc.

If installation is required, provide details on what is expected of the contractor. If a site visit is required, indicate a contact name and telephone number.

When bidding maintenance, define the extent of service, parts, labor, travel, service hours required, number of preventative maintenance inspections, and any other inclusions or exclusions. Specifications should avoid using restrictive language such as “vendor must be located within a 20 mile radius of Baton Rouge.” Request a reasonable response time instead.

It is important to understand and indicate options to be included in the vendor’s bid price. When upgrade capabilities are requested, clearly state if it is desired at time of purchase or in the future.

If specifications indicate the desired brand and number, invite competitive brands by indicating “or equal” unless proprietary procedures have been followed.

If performance specifications are included, are performance indicators outlined?

Eliminate mandatory requirements if not important to the function of the purchase.

Understand the use of the following words:

- “Shall” denotes the imperative

- “May” denotes the permissive

- “Should” denotes desirable

- “And” means it must have both or multiples

- “Or” means either is acceptable

Submittal of literature, proof of training, insurance or other certificate requirements with bid should not be mandatory. Instead, allow successful bidder to submit these documents after the bids have opened, prior to award.

On long technical specifications, you may want to include a yes/no column to invite vendors’ compliance response to assist in the evaluation process.

Remember – you cannot evaluate a bid on criteria that is not part of the solicitation. Just because a particular brand and number specified has an inherent feature, you cannot rule out other bidders if the feature was not described in the specification. However if the inherent feature is unique to the brand and no other brand can meet the needs of the agency, see sole source or proprietary section for compliance requirements.

Section 14

Solicitations

Review Rules and Regulations Section 503 – Bidding Time

After requisition and specification review, the solicitation is created in AGPS.

Solicitation Numbers are assigned sequentially by AGPS and begin with a two (2). Consult the AGPS process manual for instructions on solicitation preparation. Also see section on cancellation and rebid if applicable.

The solicitation must be advertised if the projected cost is over \$25,000 in the State's official journal, The Advocate, and the parish journal where goods or services will be delivered using a brief generic description of the item. (At this time all bid files over \$25,000 are sent to State Purchasing for processing unless exempt.) Solicitation must also be posted to LaPAC if \$25,000 or above.

Bid opening dates should be established. It is suggested that enough time be allowed for processing, printing and mail out. (Advertised files require at least ten days between advertisement and opening.) Any solicitation handled by the Office of State Purchasing, regardless of the dollar amount is released with a 21 day minimum bid time unless the CPO or his designee deems that a shorter time is necessary for a particular procurement. Be aware of State and federal holidays when scheduling bid openings and avoid opening bids the day after a U. S. Postal Service holiday.

For agency informational purposes only:

If the solicitation is for a labor and materials job bid under Title 38, R.S. 38.2212(3)(a)(i):
“The advertisement required by this Section for any contract for public works, shall be published **once a week for three different weeks** in a newspaper in the locality, the first advertisement to appear at least thirty days before the opening of bids.

(ii) However, when the advertisement is published in a daily newspaper in the locality, the advertisement shall be published three times within fifteen days, the first advertisement to appear at least thirty days before the opening of bids.

(B) The advertisement required by this Section for any contract for materials or supplies shall be published three times in a newspaper in the locality, the first advertisement to appear at least fifteen days before the opening of the bids”.

If the solicitation includes a mandatory prebid conference, the conference must be advertised. A copy of the Notice to Bidders can be used for advertisement or language can be added to your advertisement such as: “A prebid conference for __(item)_____ will be held on __(date and time)_____ at _____(location)_____. Attendance is mandatory”. Mandatory conferences should be discouraged. Conferences where attendance is strongly recommended should be utilized where possible.

If vendors request bid forms when the solicitation is on the street, obtain the vendor's name, address, telephone, fax and his FEIN number. If a vendor does not already have a vendor number established in AGPS, you may fax him a W9 for completion. Our vendor enrollment section or the agency will assign a casual vendor number. The completed W9 is sent to OSRAP

to activate the AGPS vendor number. Once assigned, it is necessary to create a SVE2 record in AGPS to assure additional vendor(s) are included in any addenda or cancellation notices that may be issued.

Section 15

Bid Receipt and Opening

All incoming bids and addenda/modifications shall be date and time stamped upon receipt and kept in a single secure place until the scheduled bid opening. Bids and modifications shall be opened publicly in the presence of one or more witnesses at the time and place designated in the bid.

Section 16

Protest

Louisiana Revised Statute 39:1671.A. **Right to protest.** AAny person who is aggrieved in connection with the solicitation or award of a contract shall protest to the chief procurement officer. Protest with respect to a **solicitation** shall be submitted in writing at least **two days** prior to the opening of bids... Protest with respect to the **award** of a contract shall be submitted in writing within **fourteen days** after the contract award”.

If a vendor tells you he is going to protest, instruct him to put it in writing addressed to the chief procurement officer (to Denise Lea, Director of State Purchasing if a non-exempt agency) and indicate the file he is protesting with details on exactly what he is protesting. Agencies are encouraged to immediately inform the Director of State Purchasing of potential or pending protests.

Purchasing agents are to review specifications prior to releasing solicitations to determine that specifications are competitive. Protests are not against the purchasing agent as a person but can be used as a learning experience.

Protest of Solicitation

Most solicitation protests occur as a result of unduly restrictive specifications. Unduly restrictive specifications limit the source(s) that can comply with all of the specifications as written, thereby unnecessarily eliminating or restricting competition on items that would be capable of satisfying the intended need. If a timely protest is received, the bids must be impounded and cannot be opened until the protest has been resolved. Specifications cannot be protested after bids are opened.

Protest of an Award

An award protest is brought about because an aggrieved party feels that the award was made to a company that did not meet or is not performing in accordance with all of the specifications. If a timely protest is received, the award must be stayed until the protest has been resolved (unless it is declared as an emergency).

State Purchasing can provide additional assistance if required.

Section 17

Bid Security Instruments and Performance Bonds

Review Rules and Regulations Section 523

Review Title 38, Section 2216 (if applicable – labor and materials)

Agencies should carefully consider the necessity of a bid bond or performance bond before requesting. Use of bid and performance bonds is discouraged unless there is a compelling need or statutory requirement. Placing bond requirements in the specifications can restrict competition and delay the award, as well as raise the cost of the contract to the state. The default clause included in standard terms and conditions of the boiler plate may be sufficient to meet your needs with timelier acquisition of goods or services. When considering whether or not to request bonds, discussions with OSP might be helpful and is encouraged. Alternative means of performance guarantee might be more beneficial.

Bid Bonds

If a bid bond is required, the amount of the bid bond must be stated in the solicitation as a set amount or as a percentage of the total bid amount. Bid bonds must accompany the bid. A bid bond, cashier's check, or certified check is acceptable made payable to the Department of the Treasury of the State of Louisiana.

If a bid bond is used, it shall be written by a surety or insurance company currently on the U. S. Department of the Treasury Financial Management Service list of approved bonding companies which is published annually in the Federal Register, or by a Louisiana domiciled insurance company with at least an A-rating in the latest printing of the A. M. Best's Key Rating Guide to write individual bonds of up to ten percent of policyholders' surplus as shown in the A. M. Best's key rating guide. Bid bonds remain in the file and checks are returned to the bidders after receipt of the performance bond from the successful bidder.

Performance Bonds

If a performance bond is required, the amount of the performance bond must be stated in the solicitation as equal to or a percentage of the contract sum. The successful bidder will be notified by letter to secure a performance bond equal to the specified sum, from a surety or insurance company currently on the U. S. Department of the Treasury Financial Management Service list of approved bonding companies which is published annually, in the Federal Register, or by a Louisiana domiciled insurance company with at least an A-rating in the latest printing of the A. M. Best's Key Rating Guide to write individual bonds up to ten percent of policyholders' surplus as shown in the A. M. Best's key rating guide or by an insurance company that is either domiciled in Louisiana or owned by Louisiana residents and is licensed to write surety bonds.

No surety or insurance company shall write a performance bond which is in excess of the amount indicated as approved by the U. S. Department of the Treasury Financial Management Service list or by a Louisiana domiciled insurance company with an A-rating by A. M. Best up to a limit of ten percent of policyholders' surplus as shown by A. M. Best; companies authorized by this

paragraph who are not on the Treasury list shall not write a performance bond when the penalty exceeds fifteen percent of its capital and surplus, such capital and surplus being the amount by which the company's assets exceed its liabilities as reflected by the most recent financial statements filed by the company with the Department of Insurance.

In addition, any performance bond furnished shall be written by a surety or insurance company that is currently licensed to do business in the State of Louisiana.

The Bond must be received within specified time from the date of notification. If the bond is not received within this period of time, the Division of Administration reserves the right to award to the next acceptable low bidder, or to reject all bids and re-advertise, whichever is in the best interest of the State of Louisiana.

If a bid security and/or performance bond is required, indicate on **SDO2** in AGPS while preparing the solicitation by changing **Bid Bond Required** from "N" to "Y" and **Bid Bond Percent or Bid Bond Amount** and/or **Perf Bond Required** from "N" to "Y" and **Perf Bond Percent or Perf Bond Amount**.

Performance bonds are requested only from the successful bidder(s).

Section 18 Addenda to Alter Solicitation/Bid Opening Date

Review Rules and Regulations Section 505

After the solicitation has been prepared, it may become necessary to issue an addendum to alter the solicitation and/or bid opening date. The reasons must be valid. Bids are not to be postponed because a vendor did not receive his bid form. Always date addenda. Addenda that alter the solicitation and/or bid opening date are issued on SAMD as ADD type in the AGPS system. When an addendum is automatically posted from AGPS to LaPAC, a brief description of the purpose of the addendum should be typed on the first available line in SATX; e.g., "REVISION TO SPECIFICATIONS", "BID OPENING DATE EXTENDED", etc. This is the description that will be displayed in LaPAC. For a manually posted addendum, the text entered in the description field on the Procurement Transmittal is manually entered into LaPAC.

Suggested language for addenda is as follows:

"Your reference is directed to File No. _____, Solicitation No. _____ for
(project) which is scheduled to open at 10:00 a.m. on (date) for (agency) .

The following changes are to be made to the referenced solicitation:

Your reasons for issuing the addendum should be very clear. For example:

Add: Size on Item 1 – 2" x 4"

Delete: All references to color on Item 4, Line 6

Change: Number of drawers on Item 3 from 4 to 3 drawers

OR

Specification now reads: Item 3 – Cabinet to have 4 drawers

Specification changed to read: Item 3 – Cabinet to have 3 drawers

THIS ADDENDUM IS HEREBY OFFICIALLY MADE A PART OF THE REFERENCED SOLICITATION.

ACKNOWLEDGEMENT: If you have already submitted your bid and this Addendum **does not** cause you to revise your bid, you should acknowledge receipt of this Addendum by identifying your business name and by signing where indicated. You may return this Acknowledgement by mail to: , by hand delivery to: , or by fax to: . The State reserves the right to request a completed Acknowledgement at any time. Failure to execute an Acknowledgement shall not relieve the bidder from complying with the terms of its bid.

Addendum Acknowledged / No Changes:

For: _____ By: _____

REVISION: If you have already submitted your bid and this Addendum requires you to revise your bid, you must indicate any change(s) below, identify your business name and sign where shown. Revisions shall be delivered prior to bid opening by mail to: , or by hand delivery or courier to: and indicate the file number and the bid opening date and time on the outside of the envelope for proper identification, or by fax to (225) 342-8688. Electronic transmission other than by fax are not being accepted at this time.

Revisions received after bid opening shall not be considered and you shall be held to your original bid.

Revision:

For: _____ By: _____

When adding items by an addendum, that will be awarded line for line, you may want to add language, “Failure to acknowledge or return this addendum will eliminate your bid from consideration for only those items listed on the addendum”.

All potential bidders solicited in the initial mailing, all suggested sources, and all vendors that requested bid forms must receive a copy of any addenda that you might issue unless there was a mandatory pre-bid conference. In that situation, only vendors who attended the conference would receive the addendum. If suggested sources were added in the RQS5 on the requisition or if an SVE2 record was created as vendors requested bid forms, they will automatically receive any addenda that are issued in AGPS. Purchasing agents should always verify in the event the system did not function properly. If solicitation was posted to LaPAC, the addenda should be also.

Although the rules and regulations state that addenda shall not be issued within a period of three working days prior to the opening of bids, the issuing agency should allow enough time for bidders to receive and respond to the addenda and may need to postpone the bid opening.

If necessary, you may postpone an advertised file exactly one (1) week from the original bid opening date without the need for readvertising. Advertised bids postponed in excess of one week must be readvertised.

If you are only postponing the bid opening date, it is not necessary to have the bidder acknowledge the addenda and you may want to include language: “Bidders are not required to acknowledge this addendum”.

A mandatory return of an addendum should only be used when it is critical to the bid process or required by law that the addendum be returned. Wording should be carefully considered.

Consult AGPS process manual on solicitation addendum. Addenda can be printed on line or overnight in AGPS.

Purchasing agents/officers should take all addenda received at their desk to the bid-opening clerk immediately so that it can be properly received.

A copy of all addenda is to remain in the file and copy is to be given to the person responsible for opening bids.

Section 19

Award Process

Review Rules and Regulations, Section 521 – Mistakes in Bids (if applicable)
Review Rules and Regulations, Section 523 – Bid Guaranty and Bond (if applicable)
Review Rules and Regulations, Section 527 – Bid Evaluation and Award
Review Rules and Regulations, Section 529 – Tie Bids (if applicable)
Review Rules and Regulations, Section 531 – Awarding of Bids
Review Rules and Regulations, Section 533 – Documentation of Award
See checklist at end of this section.

After the bids have been opened and publicly read, they are tabulated. If necessary, **prices must be calculated and reduced to a common denominator** to determine the lowest bidder i.e. per oz. etc. Note this on the tabulation. Caution should be exercised not to give low bidders packaging advantages. (Example: If you asked for an 8 oz. bottle and received a low bid per oz. on a 24 oz. bottle, bidder would have packaging advantage.)

If the vendor has corrected prices on his bid and failed to initial, obtain written verification to confirm the bidder made the correction.

Review all bids for completion, signature, and responsiveness to the solicitation. It is in the State’s best interest to utilize all bids that can be interpreted to be within the guidelines.

Do not take a bid apart and rearrange with information received after the bid opening. After your review, the bid is to be put in the order it was received from the bid room with the envelope attached. Any information received from the bidder after the bid opening should be placed behind the bid envelope. This will help identify the order of receipt of bid related information.

Calculate all applicable preferences and cash discounts and note on the tabulation.

In-State Preference – Quoting R.S. 39:1595.1 (also referred to as “reciprocal preference”)

“A. In the awarding of contracts by any public entity, except contracts for the construction, maintenance, or repair of highways and streets, and contracts financed in whole or in part by contributions or loans from any agency of the United States government, where both in-state and out-of-state vendors are bidding, in-state vendors shall be given a preference in the same manner that any of the out-of-state vendors would be given on a comparative bid in their own state. If one party to the joint venture is qualified under this Section as a vendor domiciled in Louisiana, this qualification shall extend to all parties to the joint venture. For the purpose of this Section, a foreign corporation which was qualified to do business in the state of Louisiana in the manner required by law more than six months prior to the advertising of bids on a contract shall be considered to be a vendor domiciled in the state of Louisiana for the purpose of awarding the contract.

B. For purposes of determination of the lowest responsible bidder, when letting contracts where bids are received from in-state vendors and out-of-state vendors, local sales and use taxes shall be excluded from the bid.

C. The provisions and requirements of this Section shall not be waived by any public entity”.

Mathematical application of reciprocal preferences

Reciprocal preferences should be calculated by adding the percentage allowed by the out-of-state bidder to his bid. Example: Suppose we receive bids from a state with a 5% preference (Company A), another state with a 3% preference (Company B) and a Louisiana company (Company C).

<u>Company A</u>		<u>Company B</u>		<u>Company C</u>	
Out-of-state with		Out-of-state with		Louisiana Company	
5% Preference		3% Preference			
bid	\$2495.00	bid	\$2475.00	bid	\$2500.00
+5%	<u>124.75</u>	+3%	<u>74.25</u>		
	2619.75		2549.25		<u>\$2500.00</u>

The bids would line up in the order of lowest to highest pricing with Louisiana first, Company B second and Company A third. Out-of-state reciprocal preferences may be obtained from NIGP at <http://www.nigp.org>

Produced, manufactured, assembled, grown, or harvested preference – (R.S. 39:1595) Most solicitations for goods (not services) include the La. Product preference. Did vendor claim?

Additional preferences apply to products produced, manufactured, assembled, grown, processed or harvested in Louisiana; letting contracts for public work; awarding contracts

for certain services; goods manufactured, or services performed by sheltered workshops; products produced, grown, or harvested in Louisiana; goods manufactured, or services performed, by sheltered workshops; and steel rolled in Louisiana. See R.S. 39:1595 if applicable.

Mathematical Application of Preferences (other than reciprocal)

The preference percentage should be added to the lowest responsive and responsible bid price to determine if the bidder claiming the preference is within the percentage range specified.

Example:	<u>Bidder A</u>	<u>Bidder B</u>	<u>Bidder C</u>
	\$1200.00	\$1275.00	\$1332.00 with 10% preference

Figured correctly: Add 10% to 1200 = \$1320.00

The preference bid does not get the award because \$1332 is not within the \$1200-1320 range.

If figured **incorrectly**: \$1332.00 less 10% = \$1198.80.

The preference would cause the wrong bidder to get the award because the price would exceed 10% of the otherwise lowest responsive and responsible bidder.

Cash discounts are calculated by subtracting the discount offered from the bidder's price. The first section, paragraph 3 of the AGPS bid form to be completed by the vendor invites the vendor to indicate if they are offering a cash discount for prompt payment if payment is made within 30 days. Cash discounts for less than 30 days or less than 1% will be accepted, but will not be considered in determining awards. On indefinite quantity term contracts, cash discounts will be accepted and taken but will not be considered in determining awards regardless of amount.

Once you have determined the lowest bidder, **review the bid for responsiveness** to the solicitation Instruction to Bidders, Standard Terms and Conditions, Special Terms and Conditions, and compliance with the bid specifications. We suggest that a telephone log be maintained in the file to document your conversations with bidders and end users as you go through the bid and evaluation process.

Instruction to Bidders

- Is the price quoted **F.O.B. destination**? See detailed explanation at the end of this section if you are not certain of F.O.B. terminology. If only one bid is received and the bidder will not agree to F.O.B. agency, an agency may accept this condition if their internal procedures allow. Note the tabulation.
- Is the **bid** manually **signed** in ink? If the bid cover sheet contains no signature, but bid contains evidence of the bidder's intent to be bound, it may be accepted. For

instance, did the bidder sign elsewhere in the bid document, etc.? Each case should be reviewed on an individual basis.

- Did bidder submit a **bid bond** if applicable? If a **performance bond** is required, obtain before awarding.

Standard Terms and Conditions

- Is bid submitted on the **State's forms**?
- Are **freight charges** included in bid price or defined in the bid so that the delivered price can be calculated on each item? If only one bid is received and the bidder has indicated shipping charges are not included, have bidder define shipping charges in writing and add separate line for freight to the purchase order along with a note "Prepay shipping charge and add to invoice. Copy of freight bill must accompany invoice". SP must return requisition to agency to add a line or issue a change order.
- Is **delivery** longer than desired? Discuss with requisitioner.
- Did **bidder** include his own **terms and conditions** that may conflict with the state of Louisiana? (Example: Contract shall be governed by the laws of any state other than Louisiana. This is not acceptable if there are other acceptable bids. If it is the only bidder, vendor may be given an opportunity to withdraw his terms and conditions.)
- Did bidder include any other clauses that might eliminate his bid from consideration? (Example: Bidder indicates an unacceptable minimum order on an open ended estimated use contract/purchase order)

Special Terms and Conditions

- Review all requirements. (Example: Did bidder visit job site if this was a mandatory requirement?)

Review Product or Service Specifications

- Is the product or service in **substantial compliance** with the specifications?
- Did the vendor include **descriptive literature** with his bid to properly evaluate? If not, request after bid opening date. Do not mandate with bid. If additional information is required to arrive at a conclusion, written confirmation from the manufacturer (not the sales representative) should be obtained.
- If a **sample** is required for evaluation, be reasonable with quantity requested. Usually one is sufficient to evaluate against specifications. We suggest that vendors submit samples properly labeled with the file number or solicitation number, line, brand and number. If the vendor has not provided the sample within a reasonable time, call and send a confirming fax stating that if the sample is not received by a specified date, his bid will be considered nonresponsive. Document the tabulation if it becomes necessary to disqualify the bid.

- Request for **additional literature or samples** should be stated similar to this:
I am unable to evaluate your bid based on the literature submitted (or without a sample). Please provide additional literature (or sample) to confirm that you have complied with our specifications. Receipt of this information is required by _____. Should this information not be received as requested, your bid will be deemed non responsive.

Clarification of brand and model number

- If the solicitation specifies a brand and number or equal, and the bidder did not indicate the brand and number in the space provided on the solicitation form or elsewhere in his bid response or on enclosed literature, the bidder cannot bid an alternate brand and number. However, you may clarify with the bidder that he is providing the specified brand and number. You may want the vendor to clarify in writing.
- If item is a custom built item, clarify with the bidder that he is taking no exceptions to the specifications.
- If any type of clarification is necessary on any file processed by OSP, generally it is recommended that all such clarifications be handled by OSP; however, agency assistance may be required when technical equipment is involved.
- If you determine that an item does not meet specifications during your conversation(s) with the vendor and agency, **document the tabulation** with person's name, date and time along with the comment.
- On technical specifications that invited vendor yes/no responses, it is the purchasing agent's responsibility to review the literature and determine specification compliance and validity of bidder's responses.
- If an **alternate brand** is to be awarded, you may need to evaluate samples or see a demonstration.

If you have a **tie bid**, refer to Rules and Regulations Section 529 (or Sec.20 of this handbook.)

Review Rule and Regulation 531.F and **determine if fewer awards can be made** on solicitations with multiple items.

If an **agency wants to review** the bids solicited by State Purchasing, State Purchasing must perform a preliminary review before sending copies. State Purchasing will indicate their findings to the agency on a transmittal cover and provide a recommendation. Certain commodities require additional technical review.

If the file is being processed by State Purchasing, the purchasing officer will carefully review agency responses to determine that specifications contain all criteria used to disqualify a bid and verify information with disqualified bidder(s) if literature does not indicate. Select only the

pertinent information to document the tabulation rather than indicate “see attached letter” since some language from the end user may not be appropriate for disqualifying a bid.

Bids cannot be awarded to low bidders that are not responsive and not in substantial compliance with the bid specifications even if the agency believes the product is acceptable. See Rules and Regulations Section 527. The agency may cancel (or request State Purchasing to cancel) the solicitation and revise the specifications for rebid if their needs have changed.

Do not write on vendor’s original bid unless marking for an award in red, green or color other than blue or black ink. Make a copy to make notes, or use colored pencils if needed.

Do not sign a bidder’s preprinted document. You may be committing to another state’s laws or unacceptable terms and conditions.

Tabulation sheets must clearly and accurately reflect the awarded bids and rejected bids. Rejected bids must be fully documented on the tabulation or attached to the bid worksheet with the reason(s) for rejection. (NAS” for “Not as Specified” is not, by itself, acceptable documentation. **Correction fluid** should not be used on the tabulation sheet. See Rules and Regulations Section 533.

Your final review should include:

Was file advertised and posted to LaPAC if required (proof is to be included in the file)?

Is file well documented for all actions taken?

Did the successful bidder include all documents requested in the solicitation including acknowledgement of any addenda you may have issued (or some indication of bidder’s intent to comply with changes)?

Budget Office approval (on rentals and leases) if over \$50,000

Note: If an **insurance certificate** is required, the certificate should be made out to your agency with your address with a copy remaining in the file.

File is to be put in order

IMPORTANT – If for any reason, you suspect the file has the potential of a protest, the file should be discussed with your supervisor or State Purchasing before releasing a purchase order.

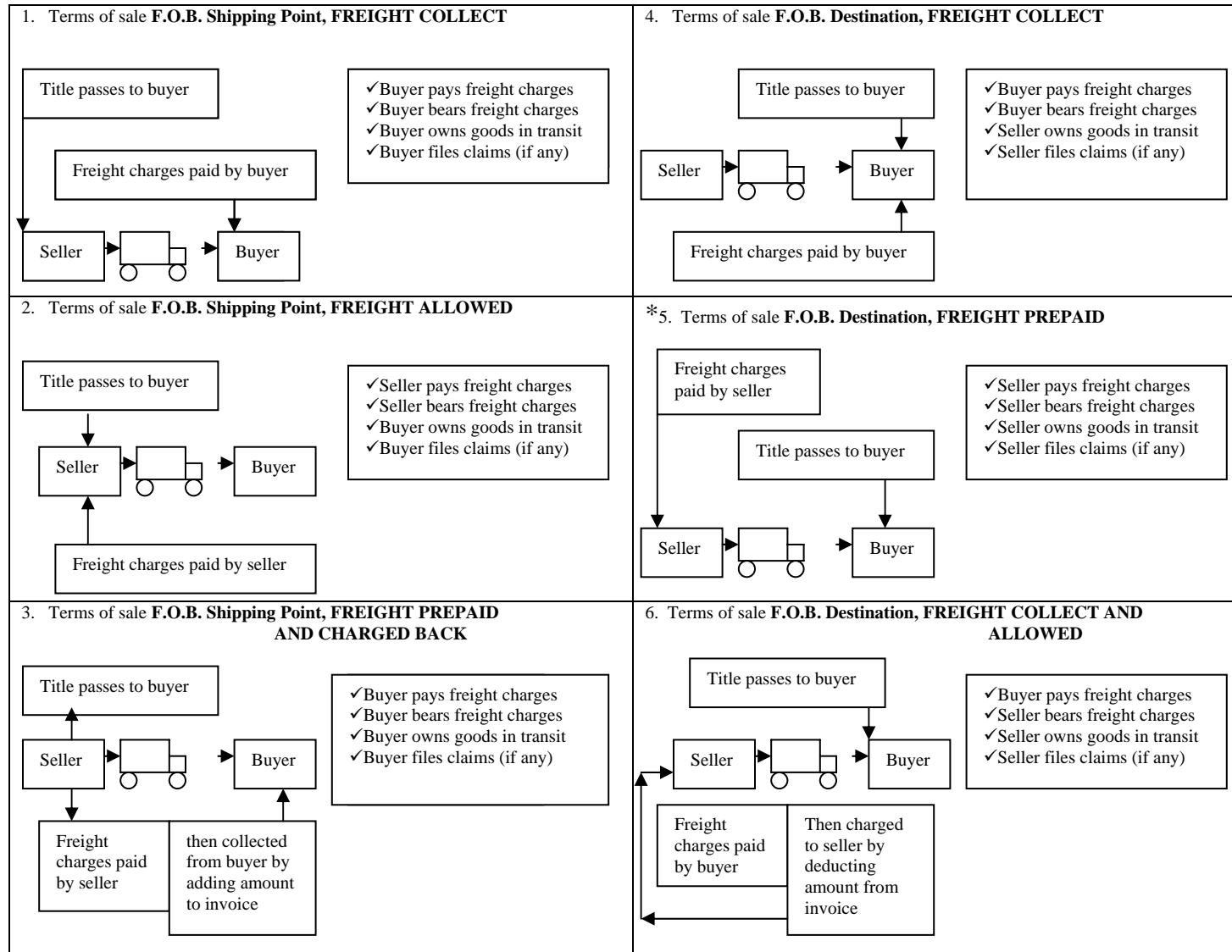
If file cannot be awarded, cancel the solicitation. A notice of cancellation must be sent to all responding bidders if the amount equals or exceeds the “Small Purchases Executive Order”. See Section on Solicitation Cancellation.

Checklist for Bid Review and Award

- ___ All item prices calculated to a common denominator
- ___ Obvious mistakes clarified and corrected
- ___ Bids are signed or contain evidence of intent to be bound
- ___ All preferences calculated (if applicable)
- ___ Cash discounts calculated (if applicable)
- ___ Bidder accepted the state's terms and conditions and did not include his terms and conditions that are contradictory to the state's
- ___ Bid bond included (if applicable)
- ___ Performance bond requested and received (if applicable)
- ___ Bid is on the State's bid form
- ___ Freight charges are included or appropriately addressed
- ___ Bid is not conditioned
- ___ Delivery meets specification or is acceptable
- ___ Bidder visited job site (if applicable)
- ___ Product or service is in substantial compliance with specifications
- ___ Tabulation is properly documented
- ___ Tie bid is addressed
- ___ Group or all-or-none award considered to save cost of additional purchase order (in best interest of state and in accordance with rules and regulations)
- ___ File was advertised and posted to LaPAC (if applicable)
- ___ Obtain insurance certificates, etc. (if applicable)

F.O.B. Terminology

Knowledge of these terms can reduce freight charges and clarify who is responsible for loss and damage occurring in transit. Below is a graphic explanation of terms of sale defining who pays freight charges and when title passes to the buyer for six 6) commonly used freight terms:



***Most commonly used. All solicitations are to invite delivered prices.**

Section 20

Tie Bids

Review Rules and Regulations Section 529 – Tie Bids

Review Rules and Regulations Chapter 23 - Reporting of Suspected Collusive Bidding or Negotiations (if applicable)

Copies of tie bids in excess of \$10,000 are sent to the attorney general's office by letter with attachments. Sample language:

In accordance with R.S. 39:1581 and L.A.C. 34:I.2305, we are reporting a tie bid on File No. _____. Attached are copies of the tie bids. The tie was broken in favor of the Louisiana bidder (*or indicate other reasoning*).

Section 21

Cancellation of Solicitation

Review Rules and Regulations Chapter 13

When a valid reason exists, it may become necessary to cancel a solicitation – some of the reasons are outlined in Section 1307 of the Rules and Regulations. Due diligence should be exercised after bid prices are exposed before canceling a solicitation. If the solicitation is canceled prior to the bid opening, all solicited vendors are sent a copy of the cancellation. The cancellation is issued on SAMD in AGPS as a CNL document type. The Notice of Cancellation shall identify the solicitation, explain the reason for the cancellation and where appropriate, explain that an opportunity will be given to compete on any resolicitation. Reasons for cancellation shall be made a part of the procurement file and available for public inspection.

If a solicitation must be canceled after the bid opening, only the responding bidders must be notified of the cancellation and only if the amount equals or exceeds the Small Purchases Executive Order. The cancellation can be done with a letter or as a SAMD in AGPS. If the cancellation letter is utilized, the file should be noted who received the cancellation notice and the date mailed. If the cancellation notice is issued in AGPS the cancellation notices generated by AGPS to those vendors that did not bid will be discarded. The cancellation should be signed/approved in accordance with agency policy/delegation.

Consult AGPS process manual for canceling a solicitation.

After issuing a CNL and if you do not intend to rebid, the solicitation should be unattached from the requisition in AGPS, and the pre-encumbrance on the requisition cancelled.

A copy of the cancellation notice is to remain in the file.

Suggested language is:

“Your reference is directed to file No. _____, Solicitation No. _____ for (project) which is scheduled to open at 10:00 a.m. on (date) for (agency).”

This solicitation is cancelled in its entirety.

This is official notice that the referenced solicitation has been cancelled due to (valid reason) .

It has been determined to be in the best interest of the State to cancel this solicitation at this time.

If appropriate, add:

A new solicitation will be issued in the near future and all prospective vendors will be given the opportunity to compete at that time.

REBID - The solicitation is cancelled via addendum if the amount exceeds the small purchases executive order. The rebid must include all bidders initially solicited. AGPS users utilize SAMD and SATX screens.

Rebid after cancellation of entire solicitation – AGPS users have the option to use the same or obtain a new solicitation number.

- If you plan to rebid using the same solicitation number, issue the addendum/cancellation prior to reissuing the solicitation.
- If you plan to rebid using a new solicitation number, issue the addendum/cancellation, unattach the solicitation from the requisition, and attach the requisition to a new solicitation

Rebid after partial award – AGPS users must use the same solicitation number. However, please be aware that bids cannot be recorded for a bidder if he received an award from the first solicitation.

- You may manually record the bids and issue a direct order in OFST (OSP cannot) for the rebid items
- OR issue a change order adding the rebid item(s) to the original order (if appropriate)
- OR cancel the unawarded items and obtain a new requisition from the user to send through the bid process.

Section 22

Purchase Orders

Prepare the file for purchase order(s) after award (obtain approval if required by internal agency procedures). Purchasing agents reviewing bids are not to mark original bids with blue or black ink as this could be interpreted to have been placed there by the bidder. Any markings by the purchasing agent should be clearly identified as such. It is suggested that a copy be made if marking is necessary. State Purchasing uses red and green pencils/pens to mark bids for purchase order issues. Green indicates information to be included on the purchase order and red eliminates information you do not want to appear on the purchase order.

For information on AGPS entry of purchase order, consult the AGPS process manual.

After the award flags are set in AGPS, the purchase order is generated. Some purchase orders require an overnight process before the hard copy can be printed (if more than 10 vendors receive awards or if there are more than 55 solicitation lines).

Purchase orders are reviewed, signed, mailed to vendors, copies distributed in accordance with internal procedures, and filed in a central location.

Next fiscal year purchase orders – If purchase orders are released prior to an upcoming fiscal year, the purchase order is to include a fiscal funding clause (“This order will be paid with new FY funds, if appropriated by the legislature. Delivery cannot be made prior to July 1”). AGPS adds new FY clause automatically during the “hold encumbrance period.” State agencies are responsible for advising State Purchasing if next fiscal year purchase orders are to be held pending budget approval by noting each requisition accordingly. Unless otherwise instructed by an agency, all orders generated by SP will be released upon issuance.

Section 23

Change Orders

Review Rules and Regulations Section 531.D

Change orders may be necessary after purchase orders are issued to the successful bidder(s). Consult the AGPS process manual for processing change orders in AGPS. If State Purchasing requires the change, State Purchasing will issue the change order except for the OCAC. Agency will be contacted to execute the OCAC. If the agency requests the change order, they will prepare the change order, encumber and print. AGPS will build an approval to State Purchasing (if we are the buyer of record) if it exceeds the tolerances. Regardless if a system approval is built or not, it will print at State Purchasing where the appropriate buyer will review the original order to determine if the change is in order. The original will be signed by State Purchasing and mailed to the vendor, a copy will be mailed to the agency and a copy will be placed in the file. The change order is not considered valid unless and until the signed copy of change is received. State Purchasing will not be involved if they were not the purchasing agency unless the change order triggers an approval.

Reasons for changes should be clear and concise. The purchasing agent’s review should determine if the change is allowable and within the scope of the contract. Examples of the most common types of change orders processed by this office follow:

Increase (INC) – The quantities are estimated on the purchase order and the solicitation and purchase order included an increase/decrease clause. After the agency exhausts the entire estimated quantity on the purchase order, an increase may be needed to meet agency requirements through the end of the contract period. A change order must be issued to notify the contractor and allow for payment. If this is the case, the agency will prepare the change, encumber and the change will either print out in our office or build an approval. It is the agency’s responsibility to submit the request (usually from the agency purchasing agent) indicating the exact quantity requested on the increase. Agencies must send a written justification for substantial quantity increases.

Decrease (DEC) – The quantities are estimated on the purchase order and the solicitation and purchase order included an increase/decrease clause. The agency may determine that no additional quantities are needed for the remainder of the contract period or they want to decrease over estimated quantities to unencumber funds. It is appropriate to place a courtesy call to the vendor and obtain his permission if the change order will cancel entire balance. (If the purchase order has the potential to be renewed the following fiscal year, the change order should include language to allow this. Example: This change order is issued to unencumber funds only.)

Note: Change orders for Increases or Decreases on orders that do not contain an increase/decrease clause cannot be processed if the variance is greater than 10% (LAC34:531.D). Agencies should return over shipments to the vendor unless specifically addressed in the purchase order or by nature of the commodity or industry.

Cancel entire purchase order (CNX) – Different circumstances precipitate the need to cancel the entire purchase order. If an agency requests to cancel the entire order on a one time buy, this cannot be done without the written permission of the vendor. Purchase orders are legal and binding agreements for both parties.

Cancel purchase order line (CNL) – Same as above

Administrative (ADM) – The purchase order inadvertently failed to include all necessary information and clauses, contained incorrect information, or the product number needs to be changed (product substitution must have Director approval or agency authority if purchase order is issued by the agency).

Be sure that your OCHG description is detailed enough for everyone to understand the change and the reason for the change. (Example: This change order is issued to decrease the quantity on Item 1 from 12 each to 10 each per user request and vendor acceptance.)

If the change order requires approval, detail your comments, indicate % of increase (if applicable) and provide your recommendation to your supervisor. Acquire approval signature (if required), and mail.

All documentation and a copy of the change order are to remain in the file.

A change order cannot be issued if final payment has been processed in AGPS. AN OFST or similar type order must be issued.

Change orders for labor and materials jobs must have written justification from the agency (with concurrence from the architect if applicable) and proposals from the vendor. Change orders for labor and materials are submitted to the State Purchasing Director for approval with the purchasing agent's recommendation. Change orders must be approved prior to beginning work.

Section 24 Assignment of Contract/Proceeds

Review Rules and Regulations Section 537

There are various reasons that may require an assignment of contract – company mergers, buy-outs, and corporate name changes or an assignment of proceeds.

All requests for assignments must be on company letterhead from an authorized person and should be forwarded to State Purchasing for processing.

When purchase orders are assigned, the outstanding balance must be paid to the newly assigned vendor. State Purchasing will modify the old vendor number with a suffix to redirect future payments. The following appropriate location codes will be added to VEND as follows:

A1 – Used when an Assignment of Proceeds is completed.

B1 – Used when an Assignment of Contract is completed.

C1 – Used when a Corporate Name Change Agreement is completed.

A copy of the assignment is to be placed in each affected file.

Section 25 Deficiency/Complaints

Agencies may develop problems related to late or no delivery, inferior merchandise, product substitution, etc. and are encouraged to address the problem with the vendor. If an agency is unable to resolve the problem, they may request assistance from State Purchasing. Complete a deficiency/complaint form documenting the events that have taken place and forward to State Purchasing. The form can be accessed and submitted directly to State Purchasing on their website under “Online Forms”. State Purchasing assigns a tracking number to all deficiency/complaints with follow up procedures in place. Letters are written to the vendor requesting corrective action and his written response within a given time. A copy of the vendor’s response is sent to the agency for comment and the logged complaint is not closed until the agency is satisfied with the resolution.

If an agency handles the complaint within their authority, it is suggested that the contractor be called to discuss the problem and follow up in writing with a copy to State Purchasing. Follow up with contractor until the problem is resolved or contact State Purchasing for assistance.

A copy of the complaint and all related correspondence should be placed in the vendor file and the affected file.

If used correctly, the deficiency/complaint report can effect better vendor performance, improved contracts and increased customer satisfaction. Agencies are encouraged to document and report all poor or deficient performance. End users need to understand the importance of ongoing documentation and reporting and not wait until it is time to award a new contract to decide that the product does not meet their needs. It is impossible for the contract manager to improve specifications or disqualify products that meet specifications without previous documentation.

Section 26

Late Payment

Review R.S. 39:1695, with R.S. 13:4202 replacing Civil Code Act 2924(B)(3) – Late payment to business; penalty paid by state agency

Late payment complaints from vendors should be investigated internally and responses provided to the vendors. A history of poor payment may result in a vendor placing an agency on C.O.D. or refusing to ship. However, if your agency payments are current, vendor cannot refuse to ship.

Often vendors write to State Purchasing for assistance in resolving the problem. If contacted for this reason, OSP will assist the vendor in obtaining payment.

Section 27

Sole Source and Proprietary

Review Rules and Regulations Section 309, Section 901, 905 and 907

Review RS 39:1655 – Maximum Practicable Competition (proprietary specifications) and RS 39:1597 – Sole Source Procurements

Sole Source

A sole source purchase is permissible only if a requirement is available from a single supplier. This means the requirement is sold only by a single supplier which is usually the manufacturer. If the requirement is manufactured by a single supplier but is sold through multiple distributors, then it is not a sole source purchase – it is a proprietary purchase. Agencies must forward their justification and a declaration of sole source letter from the vendor if the purchase will be processed at State Purchasing. The same documentation is required if the agency processes the file.

The agency justification letter is to be approved by the chief procurement officer or the head of a purchasing agency (other approvals may be applicable depending on the agency or commodity). The agency's justification must state exact item(s) they are seeking to purchase as a sole source, why no other product will be suitable or acceptable to meet their needs, and that Company X is the only known source.

Exercise caution in requesting sole source approval for multiple item requisitions that contain peripheral and supply items (monitors, printing paper, etc.) that may not be manufactured by the sole source vendor.

The vendor letter should be on letterhead from the national marketing representative (if applicable) and not a sales representative. His letter should state the unique or compatibility characteristics of the product, that he is the only known source for the particular product, that he does not sell through distributors, and a firm price quote. In a sole source situation, obtain list price from the vendor to determine that the State is getting a fair price--preferably less than but no higher than list price.

Other conditions for sole source are where compatibility (with existing equipment such as interface requirements, connections, etc.) is the paramount consideration, where a sole supplier's

item is needed for trial use or testing, procurement of items for resale, procurement of public utility services, registered breeding stock on a selective basis and other livestock on a selective basis with special approvals. This type of sole source should also be documented and contain appropriate approvals.

An annual report of all agency sole source purchases from the previous fiscal year must be reported to the legislature. Submit your report to the Office of State Purchasing for preparation of the statewide report in accordance with the rules and regulations. The report shall list:

- Each contractor's name;
- The amount and type of each contract;
- A listing of the supplies, services, or major repairs procured under each contract; and
- The identification number of each contract file

Proprietary

A proprietary purchase is similar in that a certain unique product is the only one that will meet the needs of the agency, but the manufacturer has chosen to distribute his product through more than one source. The same letter from the agency is required as mentioned in the sole source justification above except that it will be for a proprietary purchase.

Bids must be solicited for proprietary purchases.

Approved proprietary purchases must be declared in the solicitation. Example: "This solicitation has been approved as a proprietary purchase and only bidders meeting these exact specifications/brand will be considered for an award."

Sole Source and Proprietary files cannot be renewed without first obtaining new letters from the vendor and agency to confirm that justifications are still valid and vendor declarations and marketing strategy remain the same.

All sole source and proprietary procurements that do not contain the chief procurement officer's signature must state that approval is in accordance with the delegation of authority provided by (PP-01, written delegation, or applicable authorizing document).

Agencies are to follow the same procedures within their delegated purchasing authority.

Sole Source Checklist

Agency requirements

Letter signed by the chief procurement officer or the head of a purchasing agency on letterhead to include:

- _____ Justification/explanation of why specific product/service/repair is the only one that will meet their need. What qualities or features make it unique to meet their need? Is the uniqueness substantially related to the intended purpose, use and/or performance?
- _____ Agency must show that other similar goods or services cannot perform the desired objectives. What other manufacturers did they investigate and why they don't meet their need.
- _____ Statement that the sole provider is the only known source.

Vendor requirements

Letter from the sole source vendor on signed letterhead. This should be from the national marketing representative (not a salesman). Letter is to include:

- _____ Firm price quote
- _____ Statement that they are the only known supplier of the product/service/repair
- _____ Statement that they do not sell this product(s) through distributors
- _____ Provide a published price list

Purchasing Agent/Officer

- _____ Does the procurement satisfy all requirements in R.S. 39:1597 and L.A.C. 34:I.901-907?
- _____ Determine if all of the above information from agency and vendor has been provided.
- _____ Determine that price is fair. You may negotiate in a sole source procurement. We should not pay full list price on a sole source procurement. At least ask for a discount.
- _____ Do your own independent research before making your recommendation. Does the internet support the single supplier statement and uniqueness of the product. Review any journals or product information housed at your desk. If not found to differ, approval should be based on agency representation.
- _____ If appropriate, research statutes specific to the product or service or agency.

If you have reason to doubt that it is a sole source, the purchase is to be bid.

Section 28 Trade-in of Used Equipment

If the solicitation will include trade-in of an existing piece of equipment, indicate the brand, model, age, serial number (if available), award language and the location where equipment can be inspected. [Example: Less trade-in of ABC Widget, Model 12, Serial No. 11111. The state reserves the right to purchase the equipment with or without the trade-in based on the best

interest of the state. Equipment can be inspected at (indicate address and exact location). For an appointment, contact (person) at (telephone number).]

Louisiana Property Assistance Agency requirements must be met. Normally the agency -obtains an approved BF-11 from Louisiana Property Assistance Agency after bids open. The purchasing agency must have a copy of the approved BF-11 before releasing the purchase order. (Procedures differ for data processing.)

On large equipment, the solicitation should indicate who is responsible for removal of old equipment in the event the trade-in offer is not accepted. Create a separate line item for the trade-in since award will be optional.

Example of trade-in language follows:

Trade-in allowance option:

This ITB solicits bids for the purchase of new equipment with a trade-in allowance for existing equipment. Quoted trade-in allowances may be a factor considered in the award. The state of Louisiana reserves the right to accept or reject trade-in offers as deemed to be in the best interest of the state and approved by the La. Property Assistance agency.

Quote allowance offered for the following equipment for trade-in. Equipment is offered “as is, where is”.

Type of Equipment: _____

Brand of Equipment: _____

Model Number: _____

Trade-in equipment is located:

Agency: _____

Street Address: _____ Room: _____

City: _____

To schedule an appointment to inspect the equipment:

Contact person: _____

Phone Number: () _____

Section 29

Rentals and Leases

Rentals are normally for short-term monthly needs and leases are for long-term needs. Before submitting requisitions to State Purchasing for bidding long-term rentals/leases, provide a written explanation of why a rental/lease is more advantageous than a purchase. Maintain in the file or forward to State Purchasing if they will be processing the purchase. Generally rentals are considered when an agency does not want to acquire ownership for justifiable reasons such as equipment with rapidly changing technology (less than 3 years).

If the only reason an agency is considering rentals or leases is because funds for a purchase are not available, they may want to consider an installment or financed purchase. Contact the Finance Program Manager at State Purchasing to determine if funds are available through finance agreements to avoid the high cost of rentals and leases. Agencies can use their rental moneys for financed purchases.

Rentals and leases should clearly define the period of coverage – beginning and ending dates.

The vendor typically provides maintenance and title does not pass.

If the agency requests a buy-out clause on a lease and intends to exercise the buy-out, the solicitation should state that only new equipment is acceptable. The purchase price and the buy-out price is to be established at the time the lease is bid and is to invite pricing for an established time period i.e. at the end of each given month or each fiscal year (if the lease has renewal potential).

Section 30

Financed purchases

If an agency requires financing for any movable equipment through one of the finance programs offered through State Purchasing, i.e. Louisiana Equipment Acquisition Fund (LEAF) or the Master Installment Purchase Agreement(MIPA), the bid process associated with the actual purchase of the equipment must be handled by the Office of State Purchasing.

Agencies should contact the Finance Program Manager at State Purchasing prior to submitting requisitions or contract release orders (if contract item) to determine if the equipment meets the established guidelines for financing and if funds are available. If approved, the agency can proceed with submitting requisitions or contract release orders and the appropriate finance documents. A purchase order will be issued if State Purchasing solicits the bids. The Finance Program Manager must approve any amount that exceeds estimated cost.

If the purchase document has been set up correctly in AGPS, a requisition being “EQP” document type or a purchase order being either an “EPO” if a direct order or a “CER” if a release from contract, it will automatically build a finance approval to State Purchasing. Agencies should mark the field “ACCTG RQD” as “N” and not build any accounting records.

If agency issues a CER, language must be included on finance purchases “This order is to be paid for on behalf of one of the State finance programs”.

Copies of any changes or cancellations on LEAF or MIPA financed files must be sent to the Finance Program Manager at State Purchasing.

Agencies may use their rental money for financed purchases instead of their equipment money.

Ownership on leased equipment remains with the agency and not the financing vendor.

Section 31

Emergencies

Review Chapter 11 of Rules and Regulations.

Any state agency may make emergency procurement of up to \$5,000 when an emergency condition arises and the need cannot be met through normal procurement methods, provided that whenever practical, approval by the chief procurement officer shall be obtained prior to the procurement. Prior to all such emergency procurement of \$5,000 or more, the chief procurement officer, head of a state agency, or either officer's designee shall approve the procurement. Prior approval should be obtained whenever practicable or by next business day when time does not permit. FAX requests should be submitted if time permits, and file must contain adequate justification for the emergency.

If an agency has an emergency situation and the purchase exceeds \$5,000 or the agency's authority (if below \$5,000), State Purchasing must be contacted for approval. Upon approval, OSP will assign an approval number which should be noted on any AGPS approvals that build or any confirmation documents submitted for review. If telephone approval is given, complete justification for emergency requests must be submitted in writing prior to AGPS approval. Approval file should indicate person that authorized approval, date, and approval number if provided.

Agency requests for emergency bid or short bid (less than 21 days) must be accompanied by a written justification if State Purchasing is processing the file.

A secure location should be established to place all emergency faxed bids until bid closing to ensure integrity of the bids and that all bids are given to the purchasing agent handling the file.

An annual report of all agency emergency purchases from the previous fiscal year must be reported to the legislature. Submit your report to the Office of State Purchasing for preparation of the statewide report in accordance with the rules and regulations. The report shall list:

- Each contractor's name;
- The amount and type of each contract;
- A listing of the supplies, services, or major repairs procured under each contract; and
- The identification number of each contract file

Checklist for Emergency Purchase

- _____ Does an emergency situation exist?
- _____ Conforms to definition in RS39:1598?
- _____ Does the situation create an immediate need for the supplies or services?
- _____ What is the dollar value of the purchase? (More than \$5,000 requires prior approval, when time permits)
- _____ Purchase is within delegated authority, less than \$5000, or approval obtained from State Purchasing
- _____ Has the chief procurement officer, head of state agency, or either officer's designee proclaimed the situation to be an emergency?
- _____ Has the chief procurement officer, head of state agency, or either officer's designee approved the purchase outside of normal procurement methods?
- _____ Would normal procurement methods threaten the functioning of government, preservation of property, or health or safety of any person?
- _____ Written justification explaining nature of emergency provided?
- _____ Effort made to obtain quotes (if delegated the purchase)?
- _____ Does time permit bidding of any type (fax, phone)?
- _____ Has the vendor submitted a quote/bid? Are the terms of the bid acceptable?
- _____ If not already obtained, has the vendor been notified to follow up with a written quote?
- _____ Is the quantity requested limited to only that necessary to meet the emergency?
- _____ What is it that is being requested? (complete description of the item)
- _____ When does delivery need to be made?
- _____ Are installation and/or training required?
- _____ Contact person and phone number at agency?
- _____ Is there a requisition or purchase order number?

Section 32

Fax Bids

When soliciting fax bids for small or emergency purchases, it is best not to use a time limitation and receive responses up until midnight unless an emergency situation dictates time limitations. Many times the fax machine is busy during work hours and vendors are not successful in submitting a response until after close of business. It is suggested that faxed bid responses be maintained in a secure designated location or by a designated individual to ensure integrity of the bids and that all responses are centrally located and available for the purchasing agent.

Section 33

Approvals and Review Files

Most review files will be processed through AGPS. Approvals are built in the system on certain types of files that require special approvals, files that exceed an agency's delegated purchasing authority, and change orders issued by the agency if the original purchase order exceeded the delegated authority or it causes the new amount to exceed the delegated amount. The Chief Procurement Officer or designee must approve purchases in excess of delegated authority.

The purchasing agent is to inquire on PAPI (User Approval Index) in AGPS to determine approvals waiting (W). This screen should be monitored frequently for pending documents that need action. Agencies should call when an emergency approval or attention to an older pending approval is required. Agencies should review the PAPV screen periodically for any notations made by the reviewer.

If an agency generates the solicitation, records tabulations on line, sets the award flags for low bidders, and indicates the reason for rejecting low bidders, State Purchasing can usually complete the review on line. Approvals will be based on the agency's representation.

If AGPS fails to build an approval when a purchase is over the agency's delegated authority or if an agency bids a file believing it was within their delegated authority and all bids came in over their authority, they are responsible for obtaining State Purchasing's approval. Agency bids that exceed their delegated authority can only be approved by the Director of State Purchasing unless prior approval was granted.

AGPS should build an approval. Copies of all bids, list of solicited vendors, tabulation of bids, and any other appropriate documentation should be forwarded to State Purchasing for review if documents are not available in AGPS.

If an agency is waiting for an approval to be processed, review of the PAPV screen may indicate the reason file has not been approved. Example: "waiting on back-up paperwork".

Once approved, the agency is responsible for reviewing OSP's PAPV record for approval contingencies and ensuring such is satisfied and documented in the agency file.

Section 34

Requisition Renewals

Review Section 2101 Rules and Regulations – Contract Provisions

Review Section 2103 Rules and Regulations – Exercise of Option

All renewals must be more advantageous to the state than a resolicitation and agreed upon by both parties – the State and the contractor(s).

When State Purchasing bids a file on behalf of an agency, all subsequent renewals are processed by State Purchasing. Agencies may secure the renewal acceptance from the vendor, but must forward a new requisition for purchase order issuance. (Agencies should **not** issue the purchase order under their purchasing agency number and let the order build an approval to State Purchasing.)

The purchasing agent/officer must research market conditions and trends and review the file before exercising renewal options. Review of the file by the processing agency should include the following:

Contract period – initial award and all subsequent renewals cannot extend beyond 36 months (or 60 months if processed with prior approval) without a valid emergency reason and only with Director of State Purchasing approval. Renewals are for specified periods not to exceed 12 months and are normally based on the fiscal year.

Did the bid contain a renewal clause? It is customary to add a renewal clause to the solicitation when applicable; however, if using AGPS, the boilerplate includes this option for term contracts under standard terms and conditions.

Have renewal quantities changed substantially to warrant a rebid for better pricing? Review OQTY usage in AGPS for actual usage and change order(s) in the file or OCHG in AGPS – were multiple change orders issued increasing quantities where a rebid might be advantageous? Check with vendor to determine where price breaks generally occur.

If quantities have substantially decreased, let the vendor know in the renewal request letter. Perhaps a copy of the new requisition indicating quantities could be attached to the letter with a brief comment in the letter.

Will the renewal \$ amount create the need for advertisement if the original bid file was less than the advertisement threshold? Consider advertisement requirements on initial quantities and anticipated renewal quantities.

Do terms and conditions or specifications need to be altered?

Has vendor performance been satisfactory? Were there any delivery or quality problems in the previous year?

Do market conditions support a renewal? Review CPI, PPI, or other recognized index appropriate to the commodity. Provide comment in renewal file.

Were any of the bids rejected on technicalities?

Was the file involved in a protest?

Were any problems with the solicitation or award discovered after the award?

Bid rejection on technicalities or previously protested files should be discussed with management if renewal is recommended.

One time buys cannot be renewed.

Renewals should be processed timely so that purchase orders are in place prior to the expiration date on the purchase order to prevent any lapse in service. Consideration should be given to the fact that the vendor may not renew.

Late renewals may be considered if the agency can provide a statement that there has been no break in service (purchases have not been made from another source in the interim or the incumbent vendor continued to provide service). Renewals should indicate sequential contract periods without a break in coverage. Renewals cannot be processed if a year of renewal was skipped.

If your review supports a renewal, send renewal request letter to the current contractor(s). Language must not commit the State and should read as a consideration only. If State Purchasing is the procurement agency, they will send the renewal letter. If the agency chooses to send renewal letters on files handled by State Purchasing, the letter should be worded appropriately beginning with “The purchasing section of the Division of Administration is **considering** exercising its option to renew...” (see sample at the end of this section).

If vendor accepts the renewal, you may issue the purchase order if within your delegation. If vendor refuses, the file must be rebid.

Agencies may use the RCPY process in AGPS for renewal requisitions. The RCPY copies the agency’s original requisition estimated unit prices; therefore, the requisition prices and quantities (if quantities have changed) will need to be altered to agree with original purchase order prices.

Purchase orders cannot be renewed if changes are required i.e. adding/changing items, clauses, terms and conditions, or prices unless original contract allowed for price adjustments based on language contained in the solicitation.

Renewals must reference original AGPS purchase order/file number that is being renewed.

If the renewal is for **next fiscal year**, the purchase order is not to be released without a fiscal funding clause until the appropriations bill has been signed. AGPS includes a clause for new fiscal year purchase orders processed during the “hold encumbrance period”. It is important that the purchase order state that delivery must be on or after July 1. State agencies are responsible for advising State Purchasing if next fiscal year purchase orders are to be held pending budget approval by noting each requisition accordingly. Unless otherwise instructed by an agency, all orders generated by SP will be released upon issuance.

At a minimum, the file should contain the new requisition, your review, recommendation, a copy of the current market survey (P.P.I., C.P.I. or other recognized index), a copy of the vendor’s signed acceptance of renewal, and a copy of the renewal purchase order.

The form that follows on the next page should help with your review. We recommend that it be placed in all renewal files. Your own form or acknowledgement in the file of your review is acceptable.

CONTRACT PERIOD TRACKING AND RENEWAL REVIEW

Original Purchase Order No. _____ File No. _____

Contract Period _____ (number of mos.) _____

First renewal Purchase Order No.: _____ File No. _____

Contract Period _____ (number of mos.) _____

Second renewal Purchase Order No. _____ File No. _____

Contract Period _____ (number of mos.) _____

Final renewal Purchase Order No. _____ File No. _____

(In the event original contract period was less than 12 months)

Contract Period _____ (number of mos.) _____

CONDITIONS FOR RENEWAL:

_____ CPI/PPI/other reflects _____% annual increase in cost for _____ commodity. Attach copy to this form.

_____ No bid was rejected on a technicality.

_____ File was not involved in a protest.

_____ Original bid file was properly advertised. Renewal quantity will not exceed advertisement threshold if original bid file was not advertised.

_____ No renewal quantity exceeds initial bid quantity >10% (must have increase/decrease clause for any variance). Vendor is made aware of any quantity changes or any items that are not renewed in renewal request letter.

_____ Value of award requires supervisor/assistant director/other approval.

_____ Bid file was open ended or contained a renewal clause

_____ Total contract period will not exceed thirty-six (36) months. >requires Director approval.

_____ No complaints in file (product and delivery acceptable)

Additional Comments and Recommendation:

APPROX. \$ Value: _____

Purchasing Officer/Agent/Buyer and Date

Approved by Supervisor/Date

Assistant Director/other(if required)/Date



State of Louisiana
DIVISION OF ADMINISTRATION

OFFICE OF STATE PURCHASING

KATHLEEN BABINEAUX BLANCO
GOVERNOR

JERRY LUKE LEBLANC
COMMISSIONER OF ADMINISTRATION

(Sample renew request letter)
date _____

Mr. Vendor
Company
P. O. Box 123
City, State zip _____

Dear Mr. Vendor:

Re: Renewal of File D000000, Contract No. 400000
Indicate Commodity or Item(s) _____

The Purchasing Section of _____ your agency _____ is considering exercising its option to renew the above referenced contract for furnishing _____ item(s) _____ at the same terms, conditions, and prices for an additional twelve (12) month period from July 1, ____ through June 30, ____ in accordance with the provisions of our original solicitation.

Please signify your willingness to accept or to reject this contract renewal by signing below where appropriate and returning it to _____ your agency _____ by _____ date (approx. 2 weeks). If this notification is not received by the aforementioned date, this contract will be deemed void at expiration date. If you have any questions concerning the above, please contact _____ purchasing agent's name _____ at _____ telephone no. _____.

Sincerely,

Agency Name
Title
Telephone number _____

(Note: Indicating new Req. No./P.O. No. here may help you to identify the file)

I hereby accept the conditions of the contract referenced above.

I hereby reject the option to renew the contract referenced above.

2/16/06

Section 35

RFP

The RFP procurement process is used for highly technical equipment, complex services or when contracting with group purchasing organizations. This method of procurement is used when cost is not the only evaluation criteria to be used and/or when soliciting solutions to a defined problem when it appears that sealed bidding is not practical or advantageous to the State. The RFP defines requirements, asks suppliers for proposed solutions, defines criteria for evaluation and outlines terms and conditions. Recommendations for award are made by a multi-function selection team who determine which offer is in the best interest of the State based on evaluation criteria defined in the RFP. This process requires a contract with monitoring and follow-up reporting.

All approved RFP's under R.S. 39:1593.C are handled by the Office of State Purchasing. Agencies wishing to utilize the RFP procurement process should contact OSP for the latest procedures and documents.

Differences in the ITB and RFP are illustrated in section 8.

Section 36

Statewide Contracts

Statewide contracts are processed at State Purchasing. The guidelines below are for your information and may be helpful to you in understanding contract creation/additions/revisions/deletions. Procedures for requesting a brand name or LaMAS contract and changing an existing brand name or LaMAS contract follow at the end of this section. Procedures differ for requesting, adding items and continuing brand name contracts on microcomputers. The latest procedures are posted on our website.

Statewide contracts are developed to group the needs of several agencies, to standardize, to combine usage for lower prices, and to ease the purchase process of commonly used items. There are two basic types of statewide contracts – competitive and brand name. Contracts are usually in effect for an initial 12-month period with two additional 12 month renewal options, if proven to be in the best interest of the state. Term contracts and multi-year contracts up to 5 years are possible with written justification and approval of the Director of State Purchasing.

Most contracts have a minimum order requirement. Check KNOA, KNTE, KON3 in AGPS to determine the minimum order requirement. Once contracts are awarded, an agency can issue a CRO (contract release order) without going through the bid process if they meet the minimum order requirement. There are no maximum dollar limits for CROs, unless set internally by your agency. Agencies can also issue REL type requisition and combine different contracts awarded to same vendor.

All contracts are assigned a “T” number that will remain the same as long as the contract is in existence. “T” numbers begin with a “9” and are 5 digits, and can be used as a search mechanism in our web based contract search.

All Contracts

Changes - If a contractor requests changes to an existing contract, it must be on company letterhead under the authorized signature indicated in the contract bid document or on file in vendor record. If an agency wants to add items or revise specifications, it must be in writing. Revisions will require explanations/details.

Renewal – Renewals must be agreed upon by both parties – the State and the contractor(s). State Purchasing researches the market and reviews usage, correspondence, deficiency complaints and all correspondence in the contract file prior to considering renewal.

Renewals should be processed timely so that contracts are in place prior to the expiration date on the current contract. Consideration should be given to the fact that the vendor may not renew and the file must be rebid.

Item(s) cannot be added to a renewal (except on microcomputer contracts) – they must be bid as a supplement to the contract. **Supplemental** bids are effective for periods that will expire on the same date as the master contract.

Contracts cannot be renewed if changes are required i.e. clauses, terms and conditions, or prices.

Contractor(s) cannot pick and choose item(s) they want to renew. They must renew entire contract.

State Purchasing can offer contractor(s) partial (only certain groups or items) renewals that can be processed if contractor(s) agree.

Contracts cannot extend beyond 36 months (5 years with prior approval on an exceptional basis – must be part of solicitation) without a valid reason and must have the Director's approval.

Mandatory Competitive Contracts

Mandatory competitive contracts allow for equal brands to be bid against specifications that are believed to be generic or open for competition. State agencies are required to purchase from mandatory competitive contracts if their quantity meets the minimum order requirement. State Purchasing has very few mandatory use contracts. These contracts may be identified on KNOA, KNTN, or KON3 in AGPS. The State uses historical data collected from all using agencies for quantities when soliciting prices for statewide contracts. Bidders respond with their best pricing based on these estimated quantities and contracts are awarded. Therefore, the State is committed to purchase all of their needs from the contractor and he in turn is compelled to furnish the items(s) or service at the price quoted within the required time.

Currently, if the contracted item does not meet an agency's need, they must submit a justification letter to State Purchasing for approval to bypass the contract. As future contracts are bid at State Purchasing and as feasible, they will become contracts for

convenience and usage will not be mandatory. Please contact the SPO responsible for each particular contract you may have questions about.

Non-mandatory Convenience Competitive Contracts

Non-exclusive competitive contracts are established for agencies' convenience and are not mandatory.

Brand Name Contracts

Brand name contracts allow only the specified brand to be bid. Brand name contracts may exist for like items for multiple brands. Agencies are encouraged to shop and compare products on contract where same or similar items appear on more than one contract and make a best value decision when making their selection. Agencies are not required to purchase from brand name contracts and may choose to solicit competitive bids instead.

Brand name contracts are usually developed because item(s) cannot be competitively bid and meet the need of the agencies, item(s) cannot be objectively evaluated using a competitive specification, or expertise is not available to develop a competitive specification.

Prior to establishing a brand name contract, the State Purchasing Officer reviews the requests, determines feasibility, provides a written justification why a brand name contract is in the best interest of the State, and obtains approval. Justifications may require agency input.

State Purchasing maintains permanent records of the original vendor and agency letters requesting establishment of brand name contracts in accordance with the Legislative Auditor's recommendations. These records are kept in a central file within the section.

Agencies should only submit requests for brand name contracts for which they are *committed* to use. Signing a letter simply on the behalf of a sales representative's request without the agency's purchase commitment is counter-productive for State Purchasing. Prior to requesting a new brand name contract, agencies should perform a comparative analysis of offerings on existing brand name contracts versus the requesting vendor's proposed brand based on criteria such as product features, quality, potential savings, and service.

State Purchasing will publish a list of all contracts that will be allowed to expire without action based on low sales. Agencies should review these contracts and select alternative brands from remaining contracts.

State Purchasing will not administer low demand, small volume brand name contracts.

State Purchasing Officers must involve management before denying renewal or deciding to rebid.

Contract Performance

In an effort to improve statewide contracts to meet the needs of the agencies, the contractor's performance is monitored. Agency feedback is requested regarding customer service, delivery, product quality, billing, overall effectiveness of the contract, and any needed changes. Agency responses are considered in determining options for renewals or revisions and rebidding. Two forms exist on OSP website to collect this information. Agencies are encouraged to use them.

Brand Name or LaMAS (Louisiana Multiple Award Schedule) Contracts

LaMAS is a program allowed by the Louisiana Legislature to establish Louisiana contracts based on pricing negotiated by the Federal Government in their General Service Administration (GSA) contracts. The new LaMAS contract rules and procedures that permit the establishment of contracts based on GSA pricing are posted on our website at <http://www.doa.louisiana.gov/osp/Contracts/lamas/lamas.htm>.

The LaMAS contract procedures are incorporated into our old brand name contract procedures with slight differences. Agencies that recognize a need to consider this type of contract, should contact the State Purchasing Officer for the commodity. State Purchasing will review the commodity and determine if the commodity should be open for consideration of this type of contract. We will compare products and prices on GSA schedules with open market prices and existing contract prices (when available). Other considerations will be:

- There is no existing statewide competitive contract for the commodity being considered.
- Competitive specifications cannot be developed to satisfy the state's needs.
- A competitive bid would likely produce better prices or value.

If the commodity is open for consideration, the commodity will be posted on our website and procedures should be followed. Inquiring vendors should be directed to State Purchasing.

The following information is provided to help you when in discussions with vendors and/or colleagues:

- Public entities may not buy directly from a GSA schedule.
- State Purchasing will develop LaMAS contracts based on GSA prices.
- Not all GSA contracts will be converted to LaMAS contracts.
- All items on a GSA pricing schedule may not be on a LaMAS contract.
- Some LaMAS contracts will be line itemed and others may be a single line item catalog contract. Each contract will include instructions when appropriate.
- LaMAS contracts are established for convenience.
- Use is not mandatory.
- General Procedures that agencies will follow to use LaMAS contracts will be to analyze and compare like items(s) of at least 3 contracts when multiple contracts exist for the commodity.
- Agencies should consider factors important to their specific needs such as special features, probable life, warranty, maintenance availability, delivery, past performance, compatibility, environmental and energy efficiency.
- Agencies should document their business decision for the selection made.

Procedures for Requesting a Brand Name or LaMAS Contract

Visit our website for additional information and updates concerning this type of contract at <http://www.doa.louisiana.gov/osp/Contracts/lamas/lamas.htm>. These are the general procedures for requesting brand name or LaMAS (Louisiana Multiple Award Schedule) contracts issued by the Division of Administration, Office of State Purchasing. Other procedures might apply to specific commodities. Please contact State Purchasing to ensure that you have the latest procedures for your specific commodity.

LaMAS contracts are based on prices no higher than GSA and will only be considered when the Office of State Purchasing determines that the commodity is open for consideration. State Purchasing will consider the commodity when there are no existing Louisiana statewide competitive contracts for the commodity or there is a valid business case. State Purchasing will post commodities on their website that are open for LaMAS contract consideration.

1. Please submit the following when requesting establishment of a brand name or LaMAS contract:
 - a. Letterhead request for the establishment of a contract with all pertinent information included from:
 - 1) Manufacturer or his authorized representative for brand name contracts, or
 - 2) GSA contractor that includes consent to extend prices no higher than GSA to the state for LaMAS contracts.
 - b. Detailed specifications of the item(s) requested by the agencies to be placed on contract, including packaging, model numbers, product literature and MSDSs (when applicable). Items requested should be separated into like commodity categories such as Janitorial Chemicals, Water Treatment Chemicals, Laboratory Reagents, Catheters, Office Equipment, etc.
 - c. A minimum of three (3) letters from three (3) separate agencies as defined below is necessary to designate their intent to purchase or rent the items if placed on contract. Only one letter is required when submitted by agencies that are responsible for numerous agencies such as Department of Social Services. The only acceptable letters for brand name contracts will be from state agencies. Acceptable letters for LaMAS contracts may be from state agencies and/or political subdivisions or quasi-public agencies.

Letters must include items that the agency intends to purchase or rent, correct packaging (where applicable), and the anticipated annual usage per item. ***Letters must be signed by an agency representative authorized to obligate funds for the agency and must certify their agency's full intent to purchase from the contract once established.*** Failure to submit accurate and complete information will cause your request to be delayed.

In order to expedite your request, it is best to submit all of the above information as one complete package at the same time. The request for a brand name or LaMAS contract is subject to approval after all information is received in proper order. Feasibility questionnaires may be needed to clarify information.

2. When approval is granted, a solicitation will be prepared by State Purchasing including those items in specific packaging as requested in the agency letters.
3. Vendors must submit with bid the most recent, published, manufacturer's printed price list or a signed and notarized typed listing of manufacturer's prices covering all items requested for brand name contracts. Vendors must submit the most recent GSA price schedule for LaMAS contracts.
4. All vendors seeking to establish a brand name or LaMAS contract should submit a W-9 (form is available on our website) or have a current bidder's application on file at State Purchasing. Requests for bidder's application forms should be directed to (225)342-8051, or Post Office Box 94095, Baton Rouge, LA 70804-9095 or obtained from our website at www.doa.louisiana.gov/osp
5. Each brand name and LaMAS contract will be reviewed annually by the Office of State Purchasing, approximately four (4) months prior to expiration of contract. In order for a contract to be considered for continuance by State Purchasing, the usage must be at least \$50,000 in annual sales. Contract purchases from both state agencies and political subdivisions are acceptable in satisfying the minimum dollar threshold. Prime contractors are required to furnish a contract usage report reflecting governmental sales within the most recent twelve-month period, inclusive of sales by any authorized distributors. The report should show the names of the purchasing entities, their order numbers, and vendor corresponding invoice numbers. It should also include a summary of the total order quantities and dollars by individual contract line numbers. We reserve the right to require copies of orders and invoices to substantiate vendor usage reports for audit purposes. The inability or failure to timely produce usage reports evidencing adequate sales volumes will result in cancellation of brand name and LaMAS contracts without consideration for reestablishment for a period of two (2) years. Also, individual items with no usage may be deleted unless copies of purchase orders from agencies can substantiate these.

Procedures for Requesting Changes to an Existing Brand Name or LaMAS Contract

1. The following procedures should be followed when requesting the addition of item(s) to an existing brand name or LaMAS contract:
 - a. Letterhead request from the contract holder requesting the addition of the item(s) with all pertinent information included.
 - b. Detailed specifications of the item(s) requested to be placed on contract are necessary, including model numbers, product name, product codes, packaging information, description and literature, and price to State of Louisiana.
 - c. Prime vendor must submit with the request for item(s) the most recent, published, manufacturer's printed price list or a signed and notarized typed listing of manufacturer's prices covering all items requested for brand name contracts. LaMAS contractors must submit their most recent GSA price schedule or proof that item(s) has been added to their GSA contract.
 - d. A minimum of one (1) letter from an agency is necessary to designate their intent to purchase or rent the specific item(s) if placed on contract. The only acceptable letters for

brand name contracts will be from state agencies. Letters from political subdivisions or quasi-public agencies will be considered for LaMAS contracts only. Letters must include those items that the agency intends to purchase or rent, the correct packaging (where applicable), including the anticipated annual usage per item. ***Letters must be signed by an agency representative authorized to obligate funds for the agency and must certify their agency's full intent to purchase the item(s) once established.*** Failure to submit accurate and complete information will cause your request to be delayed. In order to expedite your request, it is best to submit all of the above at the same time. The request for the addition of item(s) is subject to approval after all information is received and in proper order.

- e. Item(s) requested to be added to a contract at the time of award will be expected to comply with all of the above.
2. Additions to brand name or LaMAS contracts will be made only twice during the contract period, other than amendments made at the time of bid or renewal.
3. Distributor vendor changes, price reductions and item deletions may be made at any time during the contract period. The prime vendor must submit a written request for these changes.
4. Price increases will be considered only when provided for in the state's contract terms and conditions and must be authorized by GSA or tied to a recognized index.

Waivers

Only the Director of State Purchasing can approve waivers to procedures. All requests for exceptions must be submitted in writing.

Section 37

Agency Term Contracts

Agency submits non-encumbered requisition annually to create the continuing need for contract.

SPO acts on receipt of CIC requisition from AGPS agency. If non-exempt, non-AGPS agency requests an ATC, they must submit an approved manual requisition and we will enter the CIC requisition.

Agency Term Contracts will have a T-number but they will not appear on our web based contract search to lessen confusion for other agencies not authorized to use another agency's ATC.

Each item must have a class-subclass-item number

Agencies are responsible for communicating their continuing need for the contract. A requisition is required to establish a new ATC or when the contract must be rebid. A letter from the agency expressing their desire to renew an existing contract is sufficient. The standard renewal review is applicable. The only exception to this would be for multi-year (36 month) contracts that OSP

issues a non-encumbered 3 year purchase order and the agency issues encumbered fiscal year purchase orders throughout the contract term.

Section 38

Communication

We believe effective communication plays a major role in accomplishing our visionary goal to simplify and improve the procurement process. Quick and accurate responses are encouraged to keep the process flowing. We also believe it affects how well our mission to develop and implement sound procurement practices in accordance with executive policy and legislative mandate, and to provide quality and timely services to the agency and vendor communities is accomplished.

We hope you find this handbook useful. Your comments are welcome and may be submitted via email to caroline.eidson@la.gov

Section 39

Glossary of Purchasing Definitions and Terms

Definitions known to exist in the Louisiana Revised Statutes are referenced with their locations. Other definitions and terms were collected from other sources. Existing statutory definitions supersede the definitions provided.

Acknowledgment - An acceptance of a purchase order, usually received at the purchasing office prior to receipt of goods, to verify cost, description, quantity and ship date.

Addendum - A formal, written change to a bid or solicitation.

Advertisement - Notification of an intended purchase in the official journal and parish journal(s) where item will be delivered.

Agency - Governmental body

AGPS - Automated purchasing system known as Advanced Government Purchasing System on the mainframe used for transmitting, transacting, and data storage of purchasing documents/processes

All-or-none bid – A bid submitted for a number of different items, services, etc. in which the bidder states it will not accept a partial award, but will accept only an award for all the items, services, etc., included in the Invitation for Bids. Such bids are acceptable only if provided for in the invitation or if the bidder quoted an individual price for each of the items, services, etc., as listed and is the low bidder on each item.

Alternate Bid – A bid submitted in knowing variance from or equal to the specified brand or specification. Such a bid is acceptable only when the variance is deemed to be in substantial compliance with the specifications.

Anticompetitive Practice - See Rules and Regulations Section 2301

Antitrust Laws – Laws that attempt to prevent or eliminate monopolies and prevent non-competitive practices.

Appropriation - Legislative act authorizing the expenditure of a designated amount of public funds for specific purposes.

Arbitrary, Capricious, or Fraudulent Action – Action by whim or caprice (or in case of fraud, in reasoned action); ungoverned action; the only grounds for a court to overrule or remand an administrative decision or ministerial action of a public purchaser.

Assembled - See R.S.39:1591(9)

Audit - Review of documents.

Award - The Purchasing Department's acceptance of a bid or proposal from a supplier; generally resulting in a purchase order or contract.

Bid - A quote offered by a supplier to a purchasing department, usually in response to a solicitation.

Bid Bond – An insurance agreement in which a third party agrees to be liable to pay a certain amount of money in the event that a specific bidder, if the bid is accepted, fails to accept the contract as bid.

Bid Evaluation - An analysis of the responses to a solicitation (by the Purchasing Department) to determine the supplier whose response meets the criteria to become the awarded recipient.

Bid Opening – The formal process through which bids are opened and the contents revealed for the first time to the bidders and the public.

Bid Room - The location within the Purchasing Department where current bids are secured until bid opening date and time; publicly opened and read; and prices recorded and tabulated.

Bid Sample – A sample required of a bidder for examination, comparison, testing, and evaluation by the prospective purchaser.

Bid Security - An instrument issued to guarantee pricing (i.e. bid bond, cashier's check, or certified check).

Bid Threshold - Amount over which competitive bids are required.

Bidder - A supplier who responds to a solicitation.

Bidder List - A list maintained by the purchasing office with names and addresses of suppliers of various goods and services from who bids, proposals, and quotations can be solicited.

Blanket Order - A purchase order issued to a supplier for one or more items for delivery as needed for a specific time, generally one year or to the end of a fiscal year.

Boiler Plate – Designation for standard terms and conditions, usually preprinted, incorporated in an Invitation for Bids, Request for Proposals, or a contract or purchase order.

Brand Name or Equal Specifications - See Rules and Regulations, Section 309.B

Business - See R.S. 39:1556(1)

Business Day – Each day, Monday through Friday, holidays excluded.

Buyer - Purchasing Department staff member authorized to commit to a purchase order or contract.

Buyer Code - A special designator assigned to a buyer that is used as part of a file number to indicate the processor.

Cancellation - A formal document issued to stop a process (i.e. solicitation, purchase order or contract)

Cash Discount - A reduction in the invoice price allowed by a supplier if payment is made within a stated time period.

Certificate of Insurance - Certificate required of successful bidders quoting on service, construction, renovation or furnish-and-install contracts.

Change Order - See R.S.39:1556(2)

Chief procurement officer - See R.S. 39:1556(3)

Collusion – A secret agreement or cooperation between two or more persons to accomplish a fraudulent, deceitful, or unlawful purpose.

Commodity - A category of goods or services.

Common or General Use Item - See Rules and Regulations, Section 309.D.

Competition – The process by which two or more vendors vie to secure the business of a purchaser by offering the most favorable terms as to price, quality, delivery and/or service.

Competitive Bidding – Obtaining of bids from two or more suppliers when requested goods or services exceed bid thresholds.

Concealed Damage - Damage to the contents of a package not visible on the exterior.

Confirming Order - A purchase order that is placed with a supplier by telephone or fax. The original purchase order is confirmed with the supplier via U.S. mail.

Conflict of Interest - A conflict between the private interests/agency and the official responsibilities of a person in a position of trust.

Consortia - A private group purchasing organization that negotiates with companies on behalf of its members to obtain favorable pricing, terms and conditions, and other benefits.

Construction - Renovation, maintenance or repair of a public building, when performed by a trades person.

Contingency Clause – A possible future event or condition arising from presently known or unknown causes, the outcome of which is or may be indeterminate at the present time.

Contract - See R.S. 39:1556(4)

Contract Compliance - Performance of service or delivery of goods in accordance with contract specifications.

Contract Modification - See R.S. 39:1556(5)

Contract Release Order – A purchase document or order issued by a using agency consistent with the prices, terms, and conditions established by a contract issued by State Purchasing.

Contractor - See R.S. 39:1556(6)

Cooperative purchasing - See R.S. 39:1701(1)

Cost-reimbursement contract - See R.S. 39:1591(1)

Data - See R.S. 39:1556(7)

Debarment - See R.S. 39:1556(8)

Delegated Authority - An amount delegated to an individual or an agency to allow processing without higher approval.

Delivery Terms – Conditions in a contract relating to freight charges, place of delivery, time of delivery or method of transportation.

Descriptive Literature – Information, such as illustrations, charts, drawings and technical data that shows the characteristics or construction of a particular product or explains its operations, furnished by a bidder as part of the bid to describe the items offered. The term refers only to information required to evaluate a product, and need not include other information such as that related to the qualifications of a bidder or operating or maintaining equipment.

Designee - See R.S. 39:1556(9)

Directives – Laws, rules and regulations, policy and procedures.

Discount - A supplier's agreement to reduce the cost below the published price of goods or services.

EDI (Electronic Data Interchange) - The ability to communicate electronically with a supplier.

Emergency - See R.S. 39:1598 and Rules and Regulations Chapter 11

Encumbrance - The setting aside of funds needed to pay for departmental commitments. Purchase requisitions pre-encumber the funds and purchase orders encumber the funds.

Equal, Or Equal – A phrase used to indicate the acceptability or products of similar or superior function, purpose, design, and/or performance.

Established catalog price - See R.S.39:1591(2)

Exempt - Department/commodity exempt by statute per R.S. 39:1572

External procurement activity - See R.S. 39:1701(2)

File No. - A specific number assigned to a file which normally includes fiscal year indicator, sequential number, buyer indicator, and special designator (if applicable).

Fiscal Year – A period of 12 consecutive months selected as a basis for annual financial reporting, planning, or budgeting – Louisiana fiscal year begins July 1 and ends June 30

FOB (Free on Board) - The point at which ownership of goods transfers from the supplier to the agency point of delivery.

FOB Destination - Title to goods transfers to the agency upon receipt.

FOB Origin - Title to goods transfers to the agency upon leaving the supplier's dock. The agency is liable for resolving freight claims or transit damage.

FOB Shipping Point - Same as FOB Origin

Generic - General description or classification

Governmental Body - See R.S. 39:1556(10)

Grant - See R.S. 39:1556(11)

Identical Bidding - See Rules and Regulations Section 529 and 2309

Installment-purchase contract - See R.S. 39:1556(12)

Invitation for bids - See R.S. 39:1591(3)

Invoice - A supplier billing document that itemizes descriptions and prices for goods and services.

ISIS - Integrated Statewide Information Systems

Joint Venture - Agreements between 2 or more parties for a common activity

Kickback - Illegal return of part of a sum of money received.

Labor and Materials contract - Contracts >\$5,000 that are reduced to a contract that utilize tradesmen and materials for construction, renovation and some furnish and install projects.

Late Payment - See R.S. 39:1695

Late Bid - Any bid received after the announced bid opening time.

Lease – A contract conveying from one person (lessor) to another (lessee) use of real estate or personal property for a designated period of time in return for rental payment or other compensation.

Lease-Purchase Agreement – A lease contract containing a purchase option in which the lessee's periodic payments or parts thereof may be applied to serve both as the rental obligation and as installments for acquiring ownership of the property upon lessee exercising the purchase option; a conditional sales contract.

List Price – Published price at which a seller offers an item for sale.

Local public procurement unit - See R.S. 39:1701(3)

Lump Sum – A single price as requested or offered on a solicitation for a group of items, without or in addition to individual item prices: a lot price.

Major repairs - See R.S. 39:1556(13)

May - See R.S. 39:1556(14)

Multiple Award - See Rules and Regulations Section 1803

No Bid – A response to an Invitation for Bids stating that the respondent does not wish to submit a bid.

Non-responsive bid – A bid that does not conform to the essential requirements of the Invitation for Bids.

Open market bid - A solicitation to which qualified bidders can respond.

Password - A security feature for individuals who access on-line computer systems, telephone answering message system, etc.

Payment Term - The length of time between receipt of an invoice in Accounts Payable and the issuing of a check.

Performance Bond – A contract of guaranty executed by a successful bidder to protect the state from loss due to contractor inability to complete the contract as agreed.

Performance Record – Record to indicate a supplier's ability to keep delivery promises and reliability, together with consistency of quality and performance of the products and services furnished.

Person - See R.S. 39:1556(15)

Phone Quote - A method of obtaining a firm price for goods or services (under the bid limit established by Executive order or under emergency conditions).

Practicable - See R.S. 39:1556(16)

Pre-bid Conference - A meeting with representatives from the Purchasing Department, the ordering department and prospective bidders. The pre-bid is conducted to examine site conditions, clarify specifications and ensure an understanding of bid requirements.

Preference - See R.S. 39:1595

Prime Vendor – A company awarded a contract for a specific or broad commodity range but who also list distributor(s) authorized to sell at the contracted price.

Private Procurement unit - See R.S. 39:1701(4)

Procurement - See R.S. 39:1556(17)

Procurement Code - Statutes governing procurement processes also referred to as Title 39 (Public Finance), Chapter 17 cited as La.R.S.39

Procurement Officer - See R.S. 39:1556(18)

Professional Service Contract - Specialized contracts processed through the Office of Contractual Review that are not competitively bid at State Purchasing.

Proprietary - See Rules and Regulations, Section 309.A

Protest - Act of an aggrieved person in connection with a solicitation or award.

Public Bid Law - Statutes governing public contracts also referred to as Title 38 (Chapter 10)

Public Record – Information about government activities that is available for public inspection.

Purchase Description - See R.S. 39:1591(4)

Purchase Order - Award document for goods or services between an agency and a supplier.

Purchase Request - See R.S. 39:1556(19)

Purchasing Agency - See R.S. 39:1556(20)

Qualified Products List - See Rules and Regulations, Section 309.C.

Qualified group purchasing organization - See R.S. 39:1556(21)

Quote - A supplier's price offer for specific goods or services provided verbally or in writing depending on dollar amount.

Rebate - A return of a part of a payment, usually from a manufacturer to a distributor.

Refund - The paying back of money owed to the State.

Reimbursement - Paying back of money spent on behalf of a state agency

Release Order – see Contract Release Order

Renewal Option - Language offering an extension of a purchase order or contract for a definite period of time mutually agreed upon by the contractor and the agency/State Purchasing at the same prices, terms and conditions.

Renewal - An extension of a purchase order or contract for a definite period of time mutually agreed upon by the contractor and the agency/State Purchasing at the same prices, terms and conditions.

Requisition – An internal document by which a using agency request the purchasing department to initiate a procurement transmitted through AGPS (normally).

Resident Business - See R.S. 39:1591(6)

Responsible Bidder - See R.S. 39:1591(7) and Rules and Regulations Section 527.B.2

Responsive Bidder - See R.S. 39:1591(8) and Rules and Regulations Section 527.B.1

Restraint of Trade – The effect of an act, contract, combination, or conspiracy which eliminates or stifles competition, effects a monopoly, artificially maintains prices, or otherwise hampers or obstructs the course of trade and commerce as it would be carried on if left to the flow of natural and economic forces.

RFP (Request for Proposal) - A request for proposers to provide a response to a desired outcome and/or problem resolution considering price and/or predetermined weighted factors for selection. Also see R.S. 39:1591(5).

Rules and Regulations - Contained in Title 34 of the Louisiana Administrative Code (L.A.C.) and provide further explanation and procedures to implement the Revised Statutes governing purchasing.

Sealed Bid – A bid which has been submitted in a sealed envelope to prevent its contents being revealed or known before the deadline for the submission of all bids to enhance competition.

Services - See R.S. 39:1556(22)

Shall - See R.S. 39:1556(23)

Small Purchase - Any procurement not exceeding the amount established by executive order of the governor.

Sole Source - See R.S. 39:1597 or Rules and Regulations Section 901

Solicitation - A document provided to bidders requesting prices for goods or services

Specification - See Rules and Regulations, Section 301

Standing Order - A purchase order issued to a supplier for item(s) to be delivered on a scheduled basis over a specified period of time, generally one year or to the end of a fiscal year.

State Director of Purchasing - See R.S. 39:1556(24)

State Procurement Unit - See R.S. 39:1701(5)

State Public procurement unit - See R.S. 39:1701(6)

Supplies - See R.S. 39:1556(25)

Suspension - See R.S. 39:1556(26)

Tabulation of Bids - A spreadsheet prepared by the purchasing department to summarize bid responses.

Tie Bid - See Rules and Regulations, Section 529 and 2309

Trade-in - Equipment offered in exchange for a reduction in cost against a new purchase.

Turnkey - An all-inclusive bid on a project to make ready for use upon completion

Unit of Measure - The way selected to obtain merchandise (i.e., box, each, roll)

User - Person or department that receives and uses the product or service ordered.

Using Agency - See R.S. 39:1556(27)

Vendor - Person with potential of supplying goods or services to the state.

Vendor File – The accumulated record maintained by the purchasing authority of information relevant to a bidder's or contractor's business relationship with the state, including application for inclusion on the bidders list, record of performance under contracts, and pertinent correspondence.

Vendor Number - A unique number assigned to each supplier address - usually a vendor's FEIN number but occasionally his social security number.

Warranty - A supplier's assurance of product durability or service.

Alphabetical Index

Addenda to Alter Solicitation/Bid Opening Date	24
Agency Term Contracts	57
Approvals and Review Files	45
Assignment of Contract/Proceeds	38
Award Process	26
Bid Receipt and Opening	22
Bid Review and Award Checklist.....	32
Bid Security Instruments and Performance Bonds	23
Brand Name Contracts	53
Cancellation of Solicitation.....	34
Change Orders	36
Checklist	
Bid Review and Award.....	32
Emergency	45
Requisition Review	18
Communication.....	58
Contract Period Tracking and Renewal Review	49
Contracts	51
Deficiency/Complaints	38
Delegated Authority.....	3
Differences between ITB and RFP	7
Emergencies.....	44
Emergency Purchase Checklist.....	45
Ethics Statement.....	1
F.O.B. terminology chart	33
Fax Bids	45
Financed Purchases.....	43
Glossary of Purchasing Definitions and Terms	59
Inquiry, Period of	12
Introduction.....	1
ITB/RFP Comparison	7
Late Payment	39
Most Common Procurement Methods	4
Opening, Bid Receipt and	22
Overview, Requisition/Purchase Order	8
Performance Bonds.....	23
Period of Inquiry	12
Prebid Conference.....	9
Prebid Conference Sign-in Sheet.....	11
Preferences.....	27
Procedures to Change Existing Brand Name or LaMAS Contract.....	56
Procedures to Request Brand Name or LaMAS Contract	55
Procurement Card	3
Procurement Methods	4

Procurement Statutes	1
Proprietary.....	39
Protests.....	22
Purchase orders	35
Rentals and Leases.....	42
Renewal letter sample	50
Renewal of Requisitions	46
Renewal review form.....	49
Requisition Renewals.....	46
Requisition Review	13
Requisition Review Checklist.....	18
Requisition Purchase Order Overview.....	8
Review and Approval Files.....	45
Review of Requisition.....	13
RFP	51
RFP, Different from ITB.....	7
Sign-in Sheet for Prebid.....	11
Sole Source and Proprietary.....	39
Solicitations.....	21
Specifications.....	19
Statewide Contracts	51
Statutes.....	1
Tie Bids	34
Trade-in of Used Equipment.....	41
Website	2

ABBREVIATIONS USED IN HANDBOOK-

AGPS – Advanced Government Purchasing System
 CPI – Consumer Price Index
 CPO – Chief Procurement Officer
 CRO – Contract Release Order
 DPA – Delegated Purchasing Authority
 ITB – Invitation to Bid
 LaCarte – Louisiana’s Procurement Card
 LaMAS – Louisiana Multiple Award Schedules
 LaPAC – Louisiana Procurement and Contract Network
 MSDS – Material Safety Data Sheet
 OSP – Office of State Purchasing
 PPI – Producer Price Index
 R.S. – Revised Statutes
 RFP – Request for Proposal
 SP – State Purchasing